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Date: 12/04/2002 7:58AM
Subject: Noise Council Meeting Cancellation

To all members and interested parties:

Scheduling circumstances of key members will prevent the Council and Committee from meeting on December 10th as previously announced. Meeting dates for 2003 will be determined (see request for suggestions below).

Status of activities:

The Department is working to identify a sponsor for the draft legislation that was approved earlier this year. Everyone will be kept apprized of this matter.

Efforts were made to secure speakers on the need to retain the HVAC exemption. Several HVAC consulting firms were contacted, but none expressed a willingness to make a presentation. We will continue to seek knowledgeable individuals that could address this issue.

Mr. Rich Pepin had been scheduled to discuss monitoring methods and meter settings for noise measurements. We would hope that he will be able to defer his presentation until the next meeting (date to be determined).

By this email, I would ask that the appointed members reply with their preference for fixed meeting dates for next year. In general, please indicate the day of the week that is most preferred and the time.

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Date: 10/03/2002 10:42AM
Subject: Change in meeting date

To all Noise Council and Interagency Committee members:

It has not been possible to schedule presenters for the Oct 8th meeting on HVAC issues. Also, Rich Peppin was unable to make his requested presentation. In consideration of these matters, the meeting on Oct 8th is being cancelled. We are also proposing to skip the November meeting since the only date that was discussed was very close to the Thanksgiving holiday and it could be difficult for some to attend. With everyone's concurrence, we will plan our next scheduled meeting for Tuesday, Dec 10, 2002. We have reserved one of our conference rooms in the lobby area of our new building at 1800 Washington Blvd. Directions are available from our web site (www.mde.state.md.us).

Please let me know if that date is a problem for you, otherwise, we will move forward with the arrangements.

Tentative topics for that meeting will be:
1- measurement techniques and metrics (Rich Peppin)
2- Residential HVAC noise levels
3- Legislation sponsorship

The agreed upon changes in the legislation have been assembled into a draft bill format for use by members in soliciting sponsors. If there are any concerns with the draft bill, please advise as soon as possible so that edits can be made and distributed. It would probably be appropriate to wait and explore sponsorship only after the elections.

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By: Introduced and read first time:
Assigned to:

A BILL ENTITLED

AN ACT concerning

Environment - Noise Control

FOR the purpose of altering the membership of the Environmental Noise Advisory Council and the Interagency Noise Control Committee; providing for staggered terms for members of the Environmental Noise Advisory Council; providing for certain duties of the Department of the Environment and the Council; generally relating to the Environmental Noise Advisory Council and the Interagency Noise Control Committee; requesting local governments to consider noise in zoning and permitting actions; and repealing an exemption for residential heat pumps and air conditioners.

BY repealing and reenacting, with amendments,
Article - Environment
Section 3-105
Annotated Code of Maryland
(1996 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, without amendments,
Article - Environment
Section 3-201 and 3-301
Annotated Code of Maryland
(1996 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Environment
Section 3-202, 3-205, and 3-302
Annotated Code of Maryland
(1996 Replacement Volume and 2002 Supplement)

BY repealing and reserving
Article - Environment
Section 4-301
Annotated Code of Maryland
(1996 replacement volume and 2002 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

3-105.

- (a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.
- (2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.
- (3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2001.

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(ii) This paragraph does not apply in Allegany, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(b) Each political subdivision shall:

(1) Send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts; and

(2) Identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title.

(3) BE ENCOURAGED TO CONSIDER COMPLIANCE WITH ANY STATE OR LOCAL NOISE STANDARDS IN ADVANCE OF ACTING ON ANY PROPOSED VARIANCE REQUESTS OR CHANGES IN ZONING CLASSIFICATIONS.

(4) BE ENCOURAGED TO CONSIDER, PRIOR TO THE ISSUANCE OF ANY BUILDING OR ACTIVITY PERMIT, OR SIMILAR AUTHORIZING DOCUMENT, IF THAT PERMIT OR ACTIVITY WILL BE IN COMPLIANCE WITH LOCAL AND STATE NOISE CONTROL STANDARDS.

3-201.

There is an Environmental Noise Advisory Council in the Department.

3-202.

(a) (1) The Council consists of [5] 11 members, 9 VOTING MEMBERS appointed by the Secretary AND 2 EX OFFICIO MEMBERS.

(2) Of the [5] 11 Council members:

(i) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Acoustical Society of America AND THE INSTITUTE OF NOISE CONTROL ENGINEERING;

(ii) 1 shall be a physician who specializes in hearing, appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Medical and Chirurgical Faculty of the State of Maryland;

(iii) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Chancellor of the University System of Maryland; [and]

(iv) 2 shall be appointed from the [general] public AT LARGE;

(V) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND MUNICIPAL LEAGUE;

(VI) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND ASSOCIATION OF COUNTIES;

(VII) 2 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND CHAMBER OF COMMERCE;

(IX) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE SENATE BY THE PRESIDENT OF THE SENATE; AND

(X) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE HOUSE OF DELEGATES BY THE SPEAKER OF THE HOUSE.

(3) [Before appointing the members from among the general public, the Secretary shall request and consider suggestions for nominees from:

(i) The Maryland State Chamber of Commerce;

(ii) The Maryland Transportation Federation;

(iii) The Maryland Environmental Trust; and

(iv) Any other environmental groups that the Secretary selects.

(4)] In making any appointment to the Council, the Secretary shall consider giving appropriate representation to the various geographical areas of this State.

(b) Each member of the Council shall be a resident of this State.

(c) (1) The term of a member is 5 years.

(2) The terms of members are staggered as required by the terms provided for members of the Council on [July 1, 1982] JULY 1, 2003. [The terms of those members end as follows:

(i) 1 in 1983;

(ii) 1 in 1984;

(iii) 1 in 1985;

(iv) 1 in 1986; and

(v) 1 in 1987.]

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

3-205.

(a) Before the Department [adopts] PROPOSES any CHANGES IN THE GOVERNING STATUTE OR REVISIONS TO THE environmental noise [standard or sound level limit] REGULATIONS, the Department shall [submit]:

(1) SUBMIT the proposed [environmental noise standard or sound level limit] REVISIONS to the Council for advice;

(2) ARRANGE FOR HEARINGS OR PRESENTATION BY PUBLIC OR BUSINESS INTERESTS; AND

(3) PREPARE OR SOLICIT TECHNICAL INPUT OR PRESENTATIONS ON ISSUES.

(b) Within 60 days after receiving a proposed [environmental noise standard or sound level limit] REVISION from the Department, the Council shall give the Department its advice on the proposal by recommending:

(1) Adoption;

(2) Rejection; or

(3) Modification.

(C) THE COUNCIL MAY PROVIDE GENERAL ADVICE TO THE DEPARTMENT ON ANY MATTER RELATING TO NOISE POLLUTION.

3-301.

There is an Interagency Noise Control Committee.

3-302.

(a) The Committee consists of:

(1) 1 member of the Governor's executive staff, appointed by the Governor; and

(2) 1 representative of each of the following departments, appointed by the Secretary of that department:

(i) The Department of the Environment;

(ii) The [State] Department of Transportation;

(iii) The Department of Natural Resources;

(iv) The Department of Planning ; [and]

(v) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(VI) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;

(VII) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; AND

(VIII) Any other principal department that develops, adopts, or enforces any noise control rule or regulation.

(b) The member who is appointed by the Secretary of the Environment is chairman of the Committee.

3-401. Environmental noise standards, sound level limits, and noise control rules and regulations – Adoption

(c) (4) REPEAL AND RESERVE

[The sound level limits and noise control rules and regulations adopted under this subsection shall be as follows for residential heat pumps and air conditioning units:

(i) Residential heat pumps 75dba.

(ii) Residential air conditioning units 70dba.]

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members of the Environmental Noise Advisory Council created by this Act who are appointed by the Secretary of the Environment shall expire as follows:

(1) 2 members in 2004;

(2) 2 members in 2005;

(3) 2 members in 2006; and

(4) 3 members in 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003.

New location
Mont. Park Red. lot" → 5th floor offices
meeting in lobby level
new no's 410-537-
Interagency Noise Committee
9/9/02

News - Geo. Hammond
Fred City Fair - 10 days
- sought exemption from ordinance
- variance re: amp & music
First local/state variance case effort

* 9/16 - Tractor-pull measurement scheduled
except as "entertainment event"

Private sponsorship (statutory req. changes needed)
(deleg. or tentions)
Exec./Admin. would not sponsor w/ election yr.
Req. changes

HVAC - next time

Next mtgs - may move to "Tues" (Dr. Schmitt teaching conflicts)
coord. w/ Rich Peppin → meas. techniques

INCE Study group → researching and discussion
Policy Nat'l - consensus
global competitiveness/product. (EU) was "yes"
- what form / extent.
emphasis was on planning / prevention
greatest source of frustration
Interview 2002
Dearborn
Resistant full EPA "ONAC"
3 benefits developer
- res. d
- state / gov't

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MEETING AGENDA
ENVIRONMENTAL NOISE ADVISORY COUNCIL
AND THE INTERAGENCY NOISE CONTROL COMMITTEE

Monday

September 9, 2002

9:00 AM to 12:00 PM

Conference Room A

Maryland Port Administration

2310 Broening Highway

09:00 Welcome and Introductions

09:05 Approve Minutes of the July

09:10 News updates

- MDE relocation – address, phone numbers, etc.

09:15 Status of Legislation

- Review of elements
- Identification of private sponsorship

09:45 Regulatory Proposals (single comprehensive package desired)

- Bring regulations into conformity with statute regarding gun clubs
- Modify household tool regulations to limit use at night
(exempt emergency situations)

10:15 +/- Break

10:30 Regulatory Proposals continued

- Restrict State authority to commercial pet operations and allow local animal control to handle domestic pet noise
- Variance procedures
 - Cost of variance to be borne by applicant
 - Require notification of elected officials
 - Multiple notices (e.g. two versus one)
- HVAC – being removed from statute (need more technical information)

11:30 Public Comment Period

12:00 Adjourn

Future meetings:

October	7th Montgomery Park
November	4th
December	2 nd

→ move to 10/8 (Tues)

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Draft September 9, 2002

Statutory Changes for Powers and Duties of Political Subdivisions

§ 3-105. Powers and Duties of Political Subdivisions

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of JANUARY 1, 2001. ~~[July 1, 1983. However, this prohibition does not apply if the sports shooting club moves to a parcel of land that is not contiguous to the location of the club on July 1, 1983.]~~

(THE ABOVE CHANGE WAS ENACTED UNDER SB 869/ HB 1423 IN 2001)

(ii) This paragraph does not apply in Allegany, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(b) Each political subdivision shall:

(1) Send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts; and

(2) Identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title.

(3) **BE ENCOURAGED TO CONSIDER COMPLIANCE WITH ANY STATE OR LOCAL NOISE STANDARDS IN ADVANCE OF ACTING ON ANY PROPOSED VARIANCE REQUESTS OR CHANGES IN ZONING CLASSIFICATIONS.**

(4) **BE ENCOURAGED TO CONSIDER, PRIOR TO THE ISSUANCE OF ANY BUILDING OR ACTIVITY PERMIT, OR SIMILAR AUTHORIZING DOCUMENT, IF THAT PERMIT OR ACTIVITY WILL BE IN COMPLIANCE WITH LOCAL AND STATE NOISE CONTROL STANDARDS.**

Statutory Changes for Council Membership and Roles

Subtitle 2. Environmental Noise Advisory Council

§ 3-201. Council Established

There is an Environmental Noise Advisory Council in the Department.

§ 3-202. Membership

(a) (1) The Council consists of ~~[5] ELEVEN~~ members, **NINE VOTING MEMBERS** appointed by the Secretary **AND TWO EX OFFICIO MEMBERS.**

(2) Of the ~~[5] ELEVEN~~ Council members:

(i) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Acoustical Society of America **AND THE INSTITUTE OF NOISE CONTROL ENGINEERING;**

(ii) 1 shall be a physician who specializes in hearing, appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Medical and Chirurgical Faculty of the State of Maryland;

(iii) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Chancellor of the University System of Maryland; and

(iv) 2 shall be appointed from the ~~[general]~~ public **AT LARGE.**

(V) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND MUNICIPAL LEAGUE;

(VI) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND ASSOCIATION OF COUNTIES;

- (VII) 2 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND CHAMBER OF COMMERCE;
- (VIII) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE SENATE BY THE PRESIDENT OF THE SENATE; AND
- (IX) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE HOUSE OF DELEGATES BY THE SPEAKER OF THE HOUSE.

~~[(3) Before appointing the members from among the general public, the Secretary shall request and consider suggestions for nominees from:~~

- ~~(i) The Maryland State Chamber of Commerce;~~
- ~~(ii) The Maryland Transportation Federation;~~
- ~~(iii) The Maryland Environmental Trust; and~~
- ~~(iv) Any other environmental groups that the Secretary selects.]~~

[(4)] (3) In making any appointment to the Council, the Secretary shall consider giving appropriate representation to the various geographical areas of this State.

(b) Each member of the Council shall be a resident of this State.

(c) TENURE – EACH MEMBER SHALL BE APPOINTED FOR A TERM OF FIVE YEARS.

~~[(1) The term of a member is 5 years.~~

~~(2) The terms of members are staggered as required by the terms provided for members of the Council on July 1, 1982. The terms of those members end as follows:~~

~~(i) 1 in 1983;~~

~~(ii) 1 in 1984;~~

~~(iii) 1 in 1985;~~

~~(iv) 1 in 1986; and~~

~~(v) 1 in 1987.~~

~~(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.~~

~~(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.]~~

§ 3-203. Officers

From among the Council members, the Secretary of the Environment shall appoint a chairman, a vice chairman, and a secretary of the Council.

§ 3-204. Meetings; compensation; staff

(a) The Council shall meet at the times and places that the Secretary or the chairman determines.

(b) A member of the Council:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The Department shall provide the Council with secretarial and stenographic assistance

§3-205 Advisory role of Council.

(a) Duty of the Department – Before the Department **PROPOSES ANY CHANGES IN THE GOVERNING STATUTE OR** ~~adopts any REVISIONS TO THE~~ environmental noise **REGULATIONS** ~~standard or sound level limit~~, the Department shall submit the proposed **REVISIONS** ~~environmental noise standard or sound level limit~~ to the Council for advice. **THE DEPARTMENT SHALL ASSIST THE COUNCIL BY ARRANGING FOR:**

1. **HEARINGS OR PRESENTATIONS BY PUBLIC AND OR BUSINESS INTERESTS, AND**

2. **PREPARE OR SOLICIT TECHNICAL INPUT OR PRESENTATIONS ON ISSUES.**

(b) Duty of the Council – Within 60 days after receiving a proposed **REVISION** ~~environmental noise standard or sound level limit~~ from the Department, the Council shall give the Department its advice on the proposal by recommending:

1. Adoption

2. Rejection; or

3. Modification.

(C) THE COUNCIL MAY ALSO PROVIDE GENERAL ADVICE TO THE DEPARTMENT ON ANY MATTER RELATING TO NOISE POLLUTION.

Statutory Changes Regarding Membership in the Committee

Subtitle 3. Interagency Noise Control Committee.

§ 3-301. Committee established.

There is an Interagency Noise Control Committee. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2.)

§ 3-302. Composition; chairman.

(a) The Committee consists of:

- (1) 1 member of the Governor's executive staff, appointed by the Governor; and
- (2) 1 representative of each of the following departments, appointed by the Secretary of that department:
 - (i) The Department of the Environment;
 - (ii) The [State] Department of Transportation;
 - (iii) The Department of Natural Resources;
 - (iv) The DEPARTMENT [Office] of Planning ~~OR THE OFFICE OF SMART GROWTH~~; [-and]
 - (v) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
 - (vi) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;
 - (vii) THE DEPARTMENT OF LICENSING, LABOR AND REGULATION; AND
 - (viii) Any other principal department that develops, adopts, or enforces any noise control rule or regulation.

(b) Chairman. - The member who is appointed by the Secretary of the Environment is chairman of the Committee. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1987, ch. 306, § 16; 1988, ch. 6, § 11; 1989, ch. 540, § 1.)

§ 3-303. Meetings; compensation; staff.

(a) Meetings. - The Committee shall meet at least twice a year, at the times and places that it determines.

(b) Compensation and reimbursement for expenses. - A member of the Committee:

- (1) May not receive compensation; but
- (2) Is entitled to reimbursement for expenses under the Travel Regulations, as provided in the State budget.

(c) Staff, consultants, and facilities. - (1) In accordance budget, the Committee may:

- (i) Employ a staff;
- (ii) Employ consultants; and
- (iii) Obtain office facilities.

(2) The Department of the Environment shall provide the Committee with secretarial and stenographic assistance. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1987, ch. 306, § 16; 1988, ch. 6, § 11.)

§ 3-304. Duties of Committee.

(a) In general. - The Committee shall:

- (1) Receive reports of progress, problems, and proposed plans for attaining and maintaining State environmental noise standards from each agency that is represented on the Committee;
- (2) Evaluate the adequacy of existing and proposed efforts to attain and maintain State environmental noise standards;
- (3) Review the relationship of State noise control rules and regulations with other environmental laws, rules, regulations, standards, and programs; and
- (4) Recommend new or revised noise control rules, regulations, or legislation.

(b) Annual report. - If the Council requests, the annual report of the Committee shall include a report of the Council. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1991, ch. 55, § 6; 1992, ch. 432; 1993, ch. 4, § 2.)

Statutory Changes for Removing HVAC partial exemption

Subtitle 4. Rulemaking and Enforcement

§ 3-401. Environmental noise standards, sound level limits, and noise control rules and regulations - Adoption

(c) (1) In adopting sound level limits and noise control rules and regulations, the Department shall consider, among other things:

- (i) The residential, commercial, or industrial nature of the area affected;
- (ii) Zoning;
- (iii) The nature and source of various kinds of noise;
- (iv) The degree of noise reduction that may be attained and maintained using the best available technology;
- (v) Accepted scientific and professional methods for measurement of sound levels; and
- (vi) The cost of compliance with the sound level limits.

(2) The sound level limits adopted under this subsection shall be consistent with the environmental noise standards adopted by the Department.

(3) The sound level limits and noise control rules and regulations adopted under this subsection may not prohibit trapshooting or other target shooting on any range or other property in Frederick County that the Frederick County Department of Planning and Zoning has approved as a place for those sporting events.

(4) REPEAL AND RESERVE

~~{ The sound level limits and noise control rules and regulations adopted under this subsection shall be as follows for residential heat pumps and air conditioning units:~~

~~(i) Residential heat pumps 75dba.~~

~~(ii) Residential air conditioning units 70dba. }~~

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Draft for Discussion Only
Regulatory Change Proposals
Sept 5, 2002

Title 26

DEPARTMENT OF THE ENVIRONMENT

**Subtitle 02 OCCUPATIONAL, INDUSTRIAL,
AND RESIDENTIAL HAZARDS**

Chapter 03 Control of Noise Pollution

Authority: Environment Article §3-401,
Annotated Code of Maryland

Preface

The Environmental Noise Act of 1974 of the State of Maryland declares as policy the limitation of noise to that level which will protect the health, general welfare, and property of the people of the State. It requires that the Department assume responsibility for the jurisdiction over the level of noise, and prepare regulations for the control of noise, including the establishment of standards for ambient noise levels and equipment performance with respect to noise, for adoption by the Secretary of the Environment. Enforcement of the regulations and standards is the responsibility of the Department in all areas, using the facilities and services of local agencies within the areas to the greatest extent possible. The Department shall coordinate the programs of all State agencies relating to noise abatement, and each State agency prescribing sound level limits or regulations respecting noise shall obtain the endorsement of the Department in prescribing any limits or regulations.

.01 Definitions.

A. "ANSI" means American national standards institute or its successor bodies.

B. "Construction" means any site preparation, assembly, erection, repair, alteration, or similar activity.

C. "Day-night average sound level (L_{dn})" means in decibels, the energy average sound level for a 24-hour day with a 10 decibel penalty applied to noise occurring during the nighttime period; i.e., noise levels occurring during the period from 10 p.m. one day until 7 a.m. the next are treated as though they were 10 dBA higher than they actually are. The use of the A-weighting is understood. The mathematical expression for L_{dn} is as follows:

$$L_{dm} = 10 \log_{10} \left[\left(\frac{15}{24} \right) 10^{L_d + 10} + \left(\frac{9}{24} \right) 10^{(L_n + 10) + 10} \right]$$

Where L_d = the daytime average sound level.

L_n = the nighttime average sound level.

D. "dBA" means abbreviation for the sound level in decibels determined by the a-weighting network of a sound level meter or by calculation from octave band or one-third octave band data.

E. "Daytime hours" means 7 a.m. to 10 p.m., local time.

F. "Decibel (dB)" means a unit of measure equal to ten times the logarithm to the base ten of the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purpose of this subtitle, 20 micropascals shall be the standard reference pressure.

G. "Demolition" means any dismantling, destruction, or removal activities.

H. "Department" means the Department of the Environment.

I. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

J. "Environmental noise" means the noise that exists at any location from all sources.

K. "Environmental noise standards" means the goals for environmental noise, the attainment and maintenance of which, in defined areas and under specific conditions, are necessary to protect the public health and general welfare.

L. "equivalent sound level" (also "average sound level") means the level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period. Equivalent sound level is the level of the time weighted, mean-square, A-weighted sound pressure. A numerical subscript may be used to indicate the time period under consideration; i.e., $L_{eq}(24)$ or $L_{eq}(8)$ for 24-hour and 8-hour periods, respectively. No subscript indicates a 24-hour period. The mathematical expression for the L_{eq} is as follows:

$$L^{eq} = 10 \log_{10} \left[\frac{1}{t_2 - t_1} \int_{t_1}^{t_2} 10^{\frac{L_A(t)}{10}} dt \right] dBA$$

Where t_1 and t_2 are the beginning and ending times, respectively, of the period over which the average is determined, and $L_A(t)$ is the instantaneous A-weighted sound pressure level fluctuating with time.

M. "Nighttime hours" means 10 p.m. to 7 a.m., local time.

N. "Noise" means the intensity, frequency, duration and character of sound, including sound and vibration of sub-audible frequencies.

O. "Noise pollution" means the presence of noise of sufficient loudness, character, and duration, which whether from a single source or multiple sources, is, or may be predicted with reasonable certainty to be, injurious to health or which unreasonably interferes with the proper enjoyment of property or with any lawful business or activity.

P. "Periodic noise" means noise possessing AN a repetitive on-and-off characteristic **WITH A RAPID RISE TO PEAK AND A SHORT DECAY NOT EXCEEDING 2 SECONDS.**

Q. "Person" means any individual, group of individuals, firm, partnership, voluntary association, or private, public, or municipal corporation, or political subdivision of the State, or Department, bureau, agency, or instrument of federal, State, or local government, responsible for the use of property.

R. "Prominent discrete tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this regulation, a prominent discrete tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the 2 contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

S. "Sound level" means, in decibels, the weighted sound pressure level measured by the use of a sound level meter satisfying the requirements of NASI S1.4 1971 "specifications for sound level meters". Sound level and noise level are synonymous. The weighting employed shall always be specified.

T. "Sound level meter" means an instrument, meeting ANSI S1.4 1971 "specifications for sound level meters", comprising a microphone, an amplifier, an output meter, and frequency-weighting network(s) that is used for the measurement of sound pressure levels in a specified manner.

U. Sound pressure

1. "Sound pressure" means the minute fluctuations in atmospheric pressure which accompany the passage of a sound wave.

2. For a steady sound, the value of the sound pressure average over a period of time.

3. Sound pressure is usually measured in dynes per square centimeter (dyne/cm^2), or in newtons per square meter (N/m^2), or in micropascals.

V. "Sound pressure level" means, in decibels, 20 times the logarithm to the base ten of the ratio of a sound pressure to the reference sound pressure of 20 micropascals (20 micronewtons per square meter). In the absence of any modifier, the level is understood to be that of a root-mean-square pressure.

W. "Source" means any person or property, real or personal, contributing to noise pollution.

X. "Vibration" means any oscillatory motion of solid bodies.

Y. "Zoning district" means a general land use category, defined according to local subdivision, the activities and uses for which are generally uniform throughout the subdivision. For the purposes of this regulation, property which is not zoned "residential", "commercial", or "industrial", shall be classified according to use as follows:

(1) "Commercial" means property used for buying and selling goods and services;

(2) "Industrial" means property used for manufacturing and storing goods;

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(Z) MOBILE AGRICULTURAL FIELD EQUIPMENT – MEANS FIELD EQUIPMENT WITH A PRIMARY FUNCTION IS ACCOMPLISHED WHILE IN MOTION, INCLUDING BUT NOT

LIMITED TO TRACTORS, TRUCKS, WAGONS, SPREADERS, AND COMBINES.

(AA) STATIONARY AGRICULTURAL FIELD MACHINERY -- MEANS EQUIPMENT THAT IS USED PRIMARILY AT A FIXED LOCATION FOR EXTENDED PERIODS OF TIME. THIS EQUIPMENT WOULD INCLUDE BUT NOT BE LIMITED TO PUMPS, GENERATORS, CHILLERS, AND GRAIN DRYING EQUIPMENT.

.02 Environmental Noise Standards.

A. Precepts.

(1) It is know that noise above certain levels is harmful tot he health of humans. Although precise levels at which all adverse health effects occur have not definitely been ascertained, it is known that one's well-being can be affected by noise through loss of sleep, speech interference, hearing impairment, and a variety of other psychological and physiological factors. The establishment of ambient noise standards, or goals, must provide margins of safety in reaching conclusions based on available data which relate noise exposure to health and welfare effects, with due consideration to technical and economic factors.

(2) The environmental noise standards set forth here represent goals expressed in terms of equivalent A-weighted sound levels which are protective of the public health and welfare. The ambient noise levels shall be achieved through application, under provisions of laws or regulations or otherwise, of means for reducing noise levels including, but not limited to, isolation of noise producing equipment, dampening of sound waves by insulation, equipment modification and redesign, and land use management.

B. Standards for Environmental Noise--General.

(1) The standards are goals for the attainment of an adequate environment. The standards set out in regulation .03 are intended to achieve these goals.

(2) The following sound levels represent the standards for the State by general zoning district:

**Table 1
Environmental Noise Standards**

<i>Zoning district</i>	<i>Level</i>	<i>Measure</i>
Industrial	70 dBA	$L_{eq}(24)$
Commercial	64 dBA	L_{dm}
Residential	55 dBA	L_{dm}

.03 General Regulations.

A. Noise and vibration prohibitions.

(1) A person may not cause or permit noise levels which exceed those specified in table 2 except as provided in §A (2) or (3), or §B, below.

Table 2
Maximum Allowable Noise Levels (dBA)
For Receiving Land Use Categories

<i>Effective date</i>	<i>Day/Night</i>	<i>Industrial</i>	<i>Commercial</i>	<i>Residential</i>
	Day	75	67	65
Upon Adoption	Night	75	62	55

(2) A person may not cause or permit noise levels emanating from construction or demolition site activities which exceed:

- (a) 90 dBA during daytime hours;
- (b) The levels specified in table 2 during nighttime hours.

(3) A person may not cause or permit the emission of prominent discrete tones and periodic noises which exceed a level which is 5 dBA lower than the applicable level listed in table 2.

(4) A person may not cause or permit beyond the property line of a source, vibration of sufficient intensity to cause another person to be aware of the vibration by such direct means as sensation of touch or visual observation of moving objects. The observer shall be located at or within the property line of the receiving property when vibration determinations are made.

b. Exemptions.

(1) The provisions of this regulation may not apply to devices used solely for the purpose of warning, protecting, or alerting the public, or some segment thereof, of the existence of an emergency situation.

(2) The provisions of this regulation do not apply to the following:

- (a) Household tools and portable appliances in normal usage
- DURING DAYTIME HOURS.**
- (b) Lawn care and snow removal equipment (daytime only) when used and maintained in accordance with the manufacturer's specifications.
- (c) Agricultural field machinery when used and maintained in accordance with the manufacturer's specifications.
- (d) Blasting operations for demolition, construction, and mining or quarrying (daytime only).
- (e) Motor vehicles on public roads.
- (f) Aircraft and related airport operations at airports licensed by the State aviation administration.
- (g) Boats on State waters or motor vehicles on State lands under the jurisdiction of the Department of natural resources.
- (h) Emergency operations.
- (i) Pile driving equipment during the daytime hours of 8 a.m. to 5 p.m.

add
"mobile"

- (j) ~~Sound not electronically amplified created by sporting, amusement, and entertainment events and other public~~

gatherings operating according to terms and conditions of the appropriate local jurisdictional body. This includes but is not limited to athletic contests, amusement parks, carnivals, fairgrounds, sanctioned auto racing facilities, parades, and public celebrations. This exemption only applies between the hours of 7 a.m. and 12 midnight.

(J) SOUND, EXCEPT THOSE SOUNDS THAT ARE ELECTRONICALLY AMPLIFIED, CREATED BY SPORTING EVENTS (EXCEPT TRAP SHOOTING, SKEET SHOOTING, OR OTHER TARGET SHOOTING), ENTERTAINMENT EVENTS AND OTHER PUBLIC GATHERINGS OPERATING UNDER PERMIT OR PERMISSION OF THE APPROPRIATE LOCAL JURISDICTION. THIS INCLUDES BUT IS NOT LIMITED TO ATHLETIC CONTESTS, AMUSEMENT PARKS, CARNIVALS, FAIRGROUNDS, SANCTIONED AUTO RACING FACILITIES, PARADES, AND PUBLIC CELEBRATIONS. THIS EXEMPTION ONLY APPLIES BETWEEN THE HOURS OF 7 AM AND MIDNIGHT.

(k) Rapid rail transit vehicles and railroads.

(l) Construction and repair work on public property.

(m) Air conditioning or heat pump equipment used to cool or heat housing on residential property. For this equipment, a person may not cause or permit noise levels which exceed 70 dBA for air conditioning equipment at receiving residential property and 75 dBA for heat pump equipment at receiving residential property.

(N) HOUSEHOLD PETS AND ANIMAL SOUNDS EXCEPT WHEN IN CONNECTION WITH BOARDING/BREEDING FACILITIES, KENNELS, ANIMAL HOSPITALS AND SHELTERS.

(O) TRAP SHOOTING, SKEET SHOOTING, OR OTHER TARGET SHOOTING BETWEEN THE HOURS OF 9 AM AND 10 PM ON ANY RANGE OR OTHER PROPERTY OF A SHOOTING SPORTS CLUB THAT IS CHARTERED AND IN OPERATION AS OF JANUARY 1, 2001. THIS EXEMPTION DOES NOT APPLY IN ALLEGANY, ANNE ARUNDEL, BALTIMORE CITY, CALVERT, CHARLES, GARRETT, HOWARD, MONTGOMERY, ST. MARY'S AND WASHINGTON COUNTIES.

*possibly
miss
table
format.*

c. Variance procedure.

(1) Any person who believes that meeting the requirements of §A, above, is not practical in a particular case may request an exception to its requirements.

(2) Requests submitted to the Department shall be in writing and shall include evidence to show that compliance is not practical.

(3) Upon receipt of a request for an exception, the Department shall schedule a hearing to be held within 60 days.

(4) The applicant for the exception, at least 30 days before the hearing date, shall advertise prominently the hearing by placing a notice in a newspaper of general circulation in the subdivision in which the facility or source for which the exception is sought is located. The notice shall include the

name of the facility or source and such additional information as the Department may require.

(5) Based upon evidence presented at the hearing, the secretary may grant an exception to §A, above, for a period not to exceed 5 years under terms and conditions appropriate to reduce the impact of the exception.

(6) Exceptions shall be renewable upon receipt by the Department of evidence that conditions under which the exception was originally granted have not changed significantly.

(7) APPLICANTS SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE VARIANCES, TO INCLUDE THE COST OF THE HEARING FACILITY RENTAL, COST OF A COURT REPORTER AT THE HEARING, PREPARATION OF THE TRANSCRIPT OF THE HEARING BY THE COURT REPORTER, AND THE COST FOR THE TIME FOR THE HEARING OFFICER TO HEAR THE CASE AND PREPARE THE DECISION.

*several opinions:
may not
work
legally
"stay tuned"*

(8) THE APPLICANT SHALL ALSO BE RESPONSIBLE FOR PROVIDING 30-DAY ADVANCE WRITTEN NOTIFICATION TO STATE AND LOCAL ELECTED OFFICIALS, TO INCLUDE STATE SENATOR(S) AND DELEGATES, COUNTY OFFICIALS, AND LOCAL OFFICIALS HAVING CONSTITUENTS IN THE AREA AFFECTED BY THE NOISE SOURCE FOR WHICH A VARIANCE IS BEING REQUESTED.

d. Measurement

(1) The equipment and techniques employed in the measurement of noise levels may be those recommended by the Department, which may, but need not, refer to currently accepted standards or recognized organizations, including, but not limited to, the American National Standard Institute (ANSI), American Society for Testing and Materials (ASTM), Society of Automotive Engineers (SAE), and the United States Environmental Protection Agency (EPA).

(2) The measurement of noise levels shall be conducted at points on or within the property line of the receiving property or the boundary of a zoning district, and may be conducted at any point for the determination of identity in multiple source situations.

(3) Sound level meters used to determine compliance with regulation .03 shall meet or exceed the specifications of the American National Standards Institute or its successor bodies ANSI s1.4-1971 for type ii sound level meters.

.04 Emission Regulations.

Reserved.

.05 penalties

a. Civil penalty. Any person who willfully violates these regulations shall be liable to a civil penalty of not more than \$10,000. Each day during which a violation continues there shall be liability for a separate penalty.

b. Plan for compliance. A violator who has submitted a plan for compliance with these regulations and has that plan or amendments to it approved by the secretary, upon recommendation of the Department, may not be considered to be in violation of these regulations as long as he acts in accordance with the original or amended plan.

Administrative history

Effective date August 6, 1975 (2:17 Md. R. 1189)

Regulation .01A-1, W-1 adopted effective February 15, 1982 (9:3 M. R. 222); repealed effective March 28, 1983 (10:6 Md. R. 558)

Regulations .01 and .03A, B, D amended effective September 14, 1977 (4:19 Md. R. 1468)

Regulation .01C amended effective march 28, 1983 (10:6 M. R. 558)

Regulations .01C, Q; .02B; .03B, D amended effective February 15, 1982 (9:3 Md. R. 222)

Regulation .03A amended as an emergency provision effective November 13, 1979 (6:24 Md. R. 1917); emergency status expired Mach 29, 1980

Regulation .03A and B amended effective March 28m, 1983 (10:6 Md. R. 558)

Regulation .04 repealed effective September 14, 1977 (4:19 Md. R. 1468)

Chapter recodified from COMAR 10.20.01 to COMAR 26.02.03

22

From: "George Harman" <gharman@mde.state.md.us>
To: <George.Luz@amedd.army.mil>, <jcherry101@comcast.net>, <fsherbert@dnr.state.md.us>, <mcdavis@dnr.state.md.us>, <fschmitz@eng.umd.edu>, <mpowell@gfirlaw.com>, <ssidh@gov.state.md.us>, <Nancy_Hubers@house.state.md.us>, "Dave Jarinko" <djarinko@mde.state.md.us>, "George Harman" <gharman@mde.state.md.us>, "Heather WOODS" <hwoods@mde.state.md.us>, "Robert FIELD" <rfield@mde.state.md.us>, "Robin Grove" <rgrove@mde.state.md.us>, <jnoonan@mdp.state.md.us>, <william.grabau@osha.gov>, <john_astle@senate.state.md.us>, <kpolcak@sha.state.md.us>
Date: 09/06/2002 2:48PM
Subject: Sept 9 Noise Council Materials

To all:

Materials for Monday's Noise Council and Interagency Committee meeting are attached. The following files should be present:

- 1- agenda
- 2- proposed statutory changes - all previously approved
- 3- proposed regulatory changes - for discussion only
- 4- Minutes from the July meeting

Hope to see most of you at the meeting.

As in the previous email on this matter, our location will be in the 2310 Building on Broening Hwy. This is the Port Administration Bldg within the same complex as our old building. Conference Room A, Second floor.

Yes, we are now in Montgomery Park, but the conference rooms are without the needed chairs and tables. Please note our new address and numbers. Email remains the same.

Effective Sept 3rd:

George Harman
MD Dept of the Environment, TARSA
1800 Wahington Blvd., Suite 540
Baltimore, MD 21230-1718
Phone: 410-537-3856
Fax: 410-537-3873
gharman@mde.state.md.us

CC: <cshaw2@alleghenyenergy.com>, <peppinr@asme.org>, <oglet@co.mo.md.us>, <mharton@comcast.net>, <john.quinn@constellation.com>, <zeleskc@dnhm.state.md.us>, <spinners@dol.net>, <erniekent@earthlink.net>, <stc921jhnsn@erols.com>, <valeriec.mdfb@erols.com>, <burner@friend.ly.net>, <ronelson@friend.ly.net>, <david_rudolph@house.state.md.us>, <sharon_grosfeld@house.state.md.us>, <wheeler_baker@house.state.md.us>, <sandyw@iximd.com>, <staff@jphuntinglodge.com>, <jmiedusiewski@mail.semmes.com>, <michael_k_begly@md.northgrum.com>, <MJJames@MDChamber.org>, <EDOUGHERTY@MDCOUNTIES.ORG>, <CandaceD@mdmunicipal.org>, <staianoengrg@mindspring.com>, <jcaffey@mmhaonline.org>, <Mark.Pfefferle@mncppc-mc.org>, <dshonerd@multistate.com>, <Dorothy.Guy@piperrudnick.com>, <roger.truitt@piperrudnick.com>, <ACE@stateside.com>, <mbabuild@toad.net>, <rgsmith@venable.com>, <cfsf123@yellowbananas.com>

Draft for Discussion Only
Regulatory Change Proposals
Sept 5, 2002

Title 26

DEPARTMENT OF THE ENVIRONMENT

**Subtitle 02 OCCUPATIONAL, INDUSTRIAL,
AND RESIDENTIAL HAZARDS**

Chapter 03 Control of Noise Pollution

Authority: Environment Article §3-401,
Annotated Code of Maryland

Preface

The Environmental Noise Act of 1974 of the State of Maryland declares as policy the limitation of noise to that level which will protect the health, general welfare, and property of the people of the State. It requires that the Department assume responsibility for the jurisdiction over the level of noise, and prepare regulations for the control of noise, including the establishment of standards for ambient noise levels and equipment performance with respect to noise, for adoption by the Secretary of the Environment. Enforcement of the regulations and standards is the responsibility of the Department in all areas, using the facilities and services of local agencies within the areas to the greatest extent possible. The Department shall coordinate the programs of all State agencies relating to noise abatement, and each State agency prescribing sound level limits or regulations respecting noise shall obtain the endorsement of the Department in prescribing any limits or regulations.

.01 Definitions.

A. "ANSI" means American national standards institute or its successor bodies.

B. "Construction" means any site preparation, assembly, erection, repair, alteration, or similar activity.

C. "Day-night average sound level (L_{dn})" means in decibels, the energy average sound level for a 24-hour day with a 10 decibel penalty applied to noise occurring during the nighttime period; i.e., noise levels occurring during the period from 10 p.m. one day until 7 a.m. the next are treated as though they were 10 dBA higher than they actually are. The use of the A-weighting is understood. The mathematical expression for L_{dn} is as follows:

$$L_{dn} = 10 \log_{10} \left[\left(\frac{15}{24} \right) 10^{L_d + 10} + \left(\frac{9}{24} \right) 10^{(L_n + 10) + 10} \right]$$

Where L_d = the daytime average sound level.

L_n = the nighttime average sound level.

D. "dBA" means abbreviation for the sound level in decibels determined by the a-weighting network of a sound level meter or by calculation from octave band or one-third octave band data.

E. "Daytime hours" means 7 a.m. to 10 p.m., local time.

F. "Decibel (dB)" means a unit of measure equal to ten times the logarithm to the base ten of the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purpose of this subtitle, 20 micropascals shall be the standard reference pressure.

G. "Demolition" means any dismantling, destruction, or removal activities.

H. "Department" means the Department of the Environment.

I. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

J. "Environmental noise" means the noise that exists at any location from all sources.

K. "Environmental noise standards" means the goals for environmental noise, the attainment and maintenance of which, in defined areas and under specific conditions, are necessary to protect the public health and general welfare.

L. "equivalent sound level" (also "average sound level") means the level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period. Equivalent sound level is the level of the time weighted, mean-square, A-weighted sound pressure. A numerical subscript may be used to indicate the time period under consideration; i.e., $L_{eq}(24)$ or $L_{eq}(8)$ for 24-hour and 8-hour periods, respectively. No subscript indicates a 24-hour period. The mathematical expression for the L_{eq} is as follows:

$$L^{eq} = 10 \log_{10} \left[\frac{1}{t_2 - t_1} \int_{t_1}^{t_2} 10^{L_A(t)/10} dt \right] dBA$$

Where t_1 and t_2 are the beginning and ending times, respectively, of the period over which the average is determined, and $L_A(t)$ is the instantaneous A-weighted sound pressure level fluctuating with time.

M. "Nighttime hours" means 10 p.m. to 7 a.m., local time.

N. "Noise" means the intensity, frequency, duration and character of sound, including sound and vibration of sub-audible frequencies.

O. "Noise pollution" means the presence of noise of sufficient loudness, character, and duration, which whether from a single source or multiple sources, is, or may be predicted with reasonable certainty to be, injurious to health or which unreasonably interferes with the proper enjoyment of property or with any lawful business or activity.

P. "Periodic noise" means noise possessing AN ~~a repetitive~~ on-and-off characteristic **WITH A RAPID RISE TO PEAK AND A SHORT DECAY NOT EXCEEDING 2 SECONDS.**

Q. "Person" means any individual, group of individuals, firm, partnership, voluntary association, or private, public, or municipal corporation, or political subdivision of the State, or Department, bureau, agency, or instrument of federal, State, or local government, responsible for the use of property.

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29

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(5) Based upon evidence presented at the hearing, the secretary may grant an exception to §A, above, for a period not to exceed 5 years under terms and conditions appropriate to reduce the impact of the exception.

(6) Exceptions shall be renewable upon receipt by the Department of evidence that conditions under which the exception was originally granted have not changed significantly.

(7) APPLICANTS SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE VARIANCES, TO INCLUDE THE COST OF THE HEARING FACILITY RENTAL, COST OF A COURT REPORTER AT THE HEARING, PREPARATION OF THE TRANSCRIPT OF THE HEARING BY THE COURT REPORTER, AND THE COST FOR THE TIME FOR THE HEARING OFFICER TO HEAR THE CASE AND PREPARE THE DECISION.

(8) THE APPLICANT SHALL ALSO BE RESPONSIBLE FOR PROVIDING 30-DAY ADVANCE WRITTEN NOTIFICATION TO STATE AND LOCAL ELECTED OFFICIALS, TO INCLUDE STATE SENATOR(S) AND DELEGATES, COUNTY OFFICIALS, AND LOCAL OFFICIALS HAVING CONSTITUENTS IN THE AREA AFFECTED BY THE NOISE SOURCE FOR WHICH A VARIANCE IS BEING REQUESTED.

d. Measurement

(1) The equipment and techniques employed in the measurement of noise levels may be those recommended by the Department, which may, but need not, refer to currently accepted standards or recognized organizations, including, but not limited to, the American National Standard Institute (ANSI), American Society for Testing and Materials (ASTM), Society of Automotive Engineers (SAE), and the United States Environmental Protection Agency (EPA).

(2) The measurement of noise levels shall be conducted at points on or within the property line of the receiving property or the boundary of a zoning district, and may be conducted at any point for the determination of identity in multiple source situations.

(3) Sound level meters used to determine compliance with regulation .03 shall meet or exceed the specifications of the American National Standards Institute or its successor bodies ANSI s1.4-1971 for type ii sound level meters.

.04 Emission Regulations.

Reserved.

.05 penalties

a. Civil penalty. Any person who willfully violates these regulations shall be liable to a civil penalty of not more than \$10,000. Each day during which a violation continues there shall be liability for a separate penalty.

b. Plan for compliance. A violator who has submitted a plan for compliance with these regulations and has that plan or amendments to it approved by the secretary, upon recommendation of the Department, may not be considered to be in violation of these regulations as long as he acts in accordance with the original or amended plan.

Administrative history

Effective date August 6, 1975 (2:17 Md. R. 1189)

Regulation .01A-1, W-1 adopted effective February 15, 1982 (9:3 M. R. 222); repealed effective March 28, 1983 (10:6 Md. R. 558)

Regulations .01 and .03A, B, D amended effective September 14, 1977 (4:19 Md. R. 1468)

Regulation .01C amended effective March 28, 1983 (10:6 M. R. 558)

Regulations .01C, Q; .02B; .03B, D amended effective February 15, 1982 (9:3 Md. R. 222)

Regulation .03A amended as an emergency provision effective November 13, 1979 (6:24 Md. R. 1917); emergency status expired March 29, 1980

Regulation .03A and B amended effective March 28m, 1983 (10:6 Md. R. 558)

Regulation .04 repealed effective September 14, 1977 (4:19 Md. R. 1468)

Chapter recodified from COMAR 10.20.01 to COMAR 26.02.03

31

**Environmental Noise Advisory Council
And
Interagency Noise Advisory Committee
Meeting Minutes
July 1, 2002 9:00 a.m.
Chesapeake Conference Room, MDE**

Members:

Council:

Senator John Astle	ex officio	absent
Nancy Benner	Public	present
Dr. George Luz, Chair	Acoustical Society	present
Delegate Nancy Hubers	ex officio	absent
Michael Powell	Public (business)	present
Dr. Fred Schmitz, Vice Chair	U of MD	present
Dr. Gerry Cherry	MedChi	present

Committee:

Bill Grabau	MOSH	present
Robin Grove, Chair	MDE	absent
Jesse Heier	Governor's Office	absent
Ken Polcak	MDOT	present
Fred Sherbert	DNR	present
	DHMH	absent

Public Attendees:

Rich Peppin	Scantek, Inc.
Erin Dougherty	MACO
Monica James Best	MD Chamber
Ed Singer	Carroll Co. Health Dept
Mark Pfeifferle	MNCPPC
Robert Boonstoppel	MD State Builders Assoc.
Katie McHugh	MD State Builders Assoc.
John Quinn	Constellation Energy
Joe Miedusiewski	

MDE Staff:

Robert Field	present
George Harman	present
Dave Jarinko	present
Bill Parrish	present

MINUTES: The minutes from the May 2002 meeting were accepted.

UPDATES:

George Harman began the discussion mentioning that MDE is providing some technical assistance to the town of Mountain Lake Park and monitoring noise at the new racetrack. This racetrack did not operate stock cars on its opening as had been anticipated; it only operated some dirt bikes and motorbikes. The noise levels were marginal at the point of measurement within the town's city limits. Dave Jarinko interjected that dirt bikes have a certain signature that makes them extremely detectable even though they may be in compliance.

Dave Jarinko and George Harman met with the Worcester County Department of Planning to discuss the potential noise ordinances. We offered them copies of local ordinances from various local governments, including Montgomery and Baltimore Counties. We talked about the opportunity to adopt specific standards and they seem to be inclined to consider some form of management restrictions rather than numerical standards, such as leaf blowers should not be operated within a fixed distance from certain areas. This way the police or any inspector could observe and determine compliance based the activity as opposed to numeric standards. The Department has the information and will be taking some recommendations to the County Commissioners over the next month or two. We will be tracking their efforts.

Mr. Harman continued with an update on Frederick City, which had passed a noise ordinance. Some last minute amendments may have been made to a draft provided to MDE. Bob Field indicated that he had looked at it and found only one problem area which relates to a definition of daytime that could that could be easily be corrected. Bob Field pointed out that the Frederick ordinance was unclear regarding their variance procedure. MDE will be making it clear that their variance procedure can only act to vary the requirements of the City ordinance and that it

can't affect the State standards. Additional complaints in Frederick relating to the County Fair and fireworks at the ballpark were also mentioned.

32

Issue – Membership recommendation for legislative change

Dr. Luz began discussion on final resolution and recommendations for legislative changes. Legislation to alter membership on the Council and Committees is the first area of discussion and Mr. Harman pointed out that the Council should have their recommendations ready around September 3 in order for the Governor's office to submit the bill again or in case the Governor's office doesn't want to submit the bill, then the Council could choose a private sponsor. Mr. Powell clarified the proposal on increasing the Council's membership by going over a chart. In the existing law two seats are split between the general public and business. In the proposal it takes those two seats and makes them both public and gives the Chamber of Commerce (business) two seats and adds one seat for the Municipal League and County. After an in-depth discussion, the Council came to a consensus that the proposed legislation should indicated nine members as had been previously endorsed by the Council last year.

Action: Re-approve previous recommendation to expand membership to nine.

Issue – HVAC Exemption in Law and Regulation – removal from law

The next order of discussion involved the potential for removing the partial exemption for residential Heating, Power and Air Conditioning equipment (HVAC). The language is duplicative in both the statute and the regulations. Mr. Harman mentioned that this is the only specific numerical standard that is in the statute. All other numerical standards are in the regulations. The Council proposes to include in its legislative recommendations to eliminate this particular standard in the statute and allow it to continue in the regulations until more discussion and input from all parties, to include the Maryland Home builders and HVAC industry. Discussions with Train and Carrier concluded that newer technologies focus on efficiency and not noise level. Discussion continued concerning where units should be placed according to the manufacturer, on costs and on maintaining the equipment. A decision was made that the exemption should be removed from the statute, but retained in the regulations until clear justification could be developed for changes.

Action: Consensus - recommend removal from statute and retain in regulation until justification for change is presented.

Issue – Local Government Role as defined in the statute

Extensive discussion was undertaken regarding the inclusion of a legislative recommendation to "encourage" local governments to "consider" noise in permitting and zoning actions. MACO prefers to have a pilot program in a couple of counties prior to any action on this matter. However, a consensus was reached to support the proposed language, which calls only for encouragement and consideration.

Action: Approve MDE's recommendation to add language to the proposed legislation.

Issue – Regulation changes to be discussed in September

A brief introduction was made of concepts for changes in the regulations. The issues of interest involved:

- Definition of periodic noise
- Definition of mobile agricultural equipment
- Definition of stationary agricultural equipment
- Limit exemption of household tools to daytime only
- Bring regulations concerning gun clubs into conformity with the statute
- Place burden for variance costs on petitioner
- Expand notification of variance request to elected officials

Next Meeting Date:

The next meeting will be held September 9, 2002 at 9:00 AM.

**Location: Maryland Port Administration, 2310 Broening Hwy.
Conference Room A**

33

**Environmental Noise Advisory Council
And
Interagency Noise Advisory Committee
Meeting Minutes
July 1, 2002 9:00 a.m.
Chesapeake Conference Room, MDE**

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Next Meeting Date:

The next meeting will be held September 9, 2002 at 9:00 AM.

**Location: Maryland Port Administration, 2310 Broening Hwy.
Conference Room A**

Summary of Issues Under Consideration by the Department
For Review by the
Environmental Noise Council
and the
Interagency Noise Advisory Committee
June 21, 2002

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Issue	Summary	Requires Statute Change	Requires Regulatory Change	Proposed Language	
Continuous Noise (goal versus standards)	The longstanding goal in the regulations suggests that an L_{dn} of 55 dBA should be achieved. The existing language and structure of the regulations is open for consideration for changing the 55 L_{dn} goal to a standard. This would be of concern to power plants, institutional HVAC systems, and other sources that operate 24 hours per day that have been regulated solely under the noise maximum standards.	Yes	Yes		
Impulse Noise Definition (incomplete definition)	Regulations define periodic noise as having a "repetitive on-and-off characteristic" and in the standards section reduce allowable noises with these characteristics by 5 dB. A revision of the definition to specify that these noises must have a cyclical duration of less than 2 seconds is an option to conform with generally recognized acoustical terminology and provide clear guidance for compliance determinations.	No	Yes		
Measurement Technique (integration period needs to be defined)	Fast L_{max} has generally been used by the Department as the measurement for obtaining maximum noise readings. Old analog meters were used with operator subjectivity. Digital meters now in use allow for the integration of sound levels over as little as $1/x^{th}$ of a second for these measurements. Current regulations are silent in this regard. Should another averaging period be used to determine maximum sound levels?	No	Yes		
Agricultural Equipment Definitions	Regulations have exempted agricultural field equipment since they were established in the 1970s. The language was, however silent on non-field equipment. MDE has enforced noise standards on fixed location farm equipment throughout the program history and clarifying definitions in the regulations to clearly indicate that fixed location equipment is regulated is an option.	No	Yes		

<p>Household Tools (nighttime restrictions)</p>	<p>These items have been totally exempted from the regulations. Several complaints over the years involving unusual nighttime hobby hours by certain individuals suggest that the blanket exemption should be modified to exempt use of the equipment only during certain hours (e.g. 7 AM to 10 PM).</p>	<p>No</p>	<p>Yes</p>	<p>Regulation - 26.02.03 b (2) - Exemptions: (a) Household tools and portable appliances in normal usage DURING DAYTIME HOURS.</p>
<p>Residential HVAC (old standards – new equipment)</p>	<p>The longstanding partial exemption for residential AC equipment allowing maximum noise to 70 dBA and residential heat pumps to 75 dBA is over 25 years old. New equipment should allow these exemptions to be adjusted downward or eliminated. Grandfathering of existing equipment should be considered. Total removal from the statute is recommended and any continuance of exemptions could be handled solely through the regulations.</p>	<p>Yes Needed before the regulations can be considered for change.</p> <p><i>Approved</i></p>	<p>Yes</p>	<p>Statute - Subtitle 4. Rulemaking and Enforcement § 3-401. Environmental noise standards, sound level limits, and noise control rules and regulations - Adoption (c) (4) REPEAL AND RESERVE [The sound level limits and noise control rules and regulations adopted under this subsection shall be as follows for residential heat pumps and air conditioning units: (i) Residential heat pumps 75dba. (ii) Residential air conditioning units 70dba-] Regulation - 26.02.03 b (2) - Exemptions: Delete [(m) Air conditioning or heat pump equipment used to cool or heat housing on residential property. For this equipment, a person may not cause or permit noise levels, which exceed 70 dBA for air conditioning equipment at receiving residential property and 75 dBA for heat pump equipment at receiving residential property.]</p>
<p>Household pets exemption (assign domestic issues to local animal control)</p>	<p>There are currently no exemptions for household pets or pets held in kennels. Therefore the State is assumed to have regulatory jurisdiction over even individual dog barking complaints. MDE is proposing that it regulate only pet noises associated with commercial operations (e.g. kennels) and thus place the burden of domestic dog barking complaints on local animal control programs.</p>	<p>No</p>	<p>Yes</p>	<p>Regulations - NEW 26.02.03 b (2) - Exemptions: (N) HOUSEHOLD PETS AND ANIMAL SOUNDS EXCEPT WHEN IN CONNECTION WITH BOARDING/BREEDING KENNELS, ANIMAL HOSPITALS AND SHELTERS.</p>
<p>Public Property Exemption (should government be exempt?)</p>	<p>Open question – should the Department be allowed to impose standards on construction and repair work on public property? Should there be a distinction between routine and emergency work? Would this interfere with highway construction now be conducted at night?</p>	<p>Yes</p>	<p>No</p>	

Research implications

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Variance Costs (should the applicant pay?)	The process for obtaining a variance includes the holding of a public hearing. This entails the identification of a suitable site and the hiring of a person to record the event and prepare an official record. The Department is also required to assign a person to serve as the hearing officer and prepare a decision document. An option could be to have the applicant, which now only pays for the newspaper notice, to assume all such costs. Estimated additional costs on the applicant range from \$500 to \$2000 depending on the length and complexity of the process.	No	Yes		
Auto Racing Exemption (Is the current exemption appropriate?)	Some facilities have been expanding their hours of operation and have, over time, included vehicles with louder engines and less muffling. Some citizens have requested some reduction in the hours of operation. Facilities have cited loss of competitiveness with similar facilities in adjacent jurisdictions and consistency with national racing organization standards. Options: <ol style="list-style-type: none"> 1- Remove the current exemption for auto racing facilities and fully regulate 2- Modify the current exemption to include limits on hours or days of operation 3- Impose requirement for mufflers for all vehicles or certain nights/hours. 4- Require variances or establish day and time limits for jet cars and other non competitive "show" vehicles. 5- Leave current exemption as it is. 	No	Yes		
Council Mission Statement (broaden review responsibilities)	Existing language seems to limit Council involvement in noise issues to a change in standards or limits. Previously approved and proposed language in HB 1421 would broaden the scope of the Council responsibilities to include the provision of advice "to the Department on any matter relating to noise pollution".	Yes Approved Jan 2002 meeting	No	See attached draft legislation for 2003	
Council and Committee Membership (broader representation)	Should the membership of these two groups be altered as previously agreed upon, or should there be additional members as proposed in HB 1421?	Yes Approved Jan 2002 meeting	No	See attached draft legislation for 2003	

Local Government Roles (noise in permit and zoning review)	Local governments could enhance the prevention of noise problems through directed review of potential noise sources in permit and zoning processes.	Yes	No	<p>§ 3-105. Powers and Duties of Political Subdivisions</p> <p>(b) Each political subdivision shall:</p> <p>(1) Send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts; and</p> <p>(2) Identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title.</p> <p>(c) EACH POLITICAL SUBDIVISION IS ENCOURAGED TO CONSIDER:</p> <p>(1) COMPLIANCE WITH ANY STATE OR LOCAL NOISE STANDARDS IN ADVANCE OF ACTING ON ANY PROPOSED VARIANCE REQUESTS OR CHANGES IN ZONING CLASSIFICATIONS.</p> <p>(2) PRIOR TO THE ISSUANCE OF ANY BUILDING OR ACTIVITY PERMIT, OR SIMILAR AUTHORIZING DOCUMENT, IF THAT PERMIT OR ACTIVITY WILL BE IN COMPLIANCE WITH LOCAL AND STATE NOISE CONTROL STANDARDS</p>
Dirt bikes/off road vehicles	Should the state or local jurisdictions impose an equipment or operational standards for off road vehicles to minimize the noise rather than rely on actual noise measurements?			<p>Local or State:</p> <p>Off road recreational vehicles shall not be operated on land parcels of less than 10 acres. Operation of off road recreational vehicles shall not be permitted on any land parcel unless the operational area is more than 500 feet from a residence and 500 feet from any livestock.</p> <p>Link to State Motor Vehicle Law</p> <p>No off road recreational vehicle may be sold in the State unless it is capable of meeting the highway noise standards established by the Motor Vehicle Administration – ref COMAR 11.14.07.04</p>

<p>Gun Clubs (bring regulations in line with the law)</p>	<p>A 1970s regulatory exempt for gun clubs was modified by 1983 legislation, which established requirements for some clubs in some counties. The regulations were never changed and need to be brought into conformity with the law. Proposed regulatory language would mirror the language in the statute.</p>	<p>No</p>	<p>Yes Approved Jan 2002 meeting</p>	<p>Regulatory Changes 26.02.03.03 B. Exemptions. (1) The provisions of this regulation may not apply to devices used solely for the purpose of warning, protecting, or alerting the public, or some segment thereof, of the existence of an emergency situation. (2) The provisions of this regulation do not apply to the following: (j) [Sound not electronically amplified created by sporting, amusement, and entertainment events and other public gatherings operating according to terms and conditions of the appropriate local jurisdictional body. This includes but is not limited to athletic contests, amusement parks, carnivals, fairgrounds, sanctioned auto racing facilities, parades, and public celebrations. This exemption only applies between the hours of 7 a.m. and 12 midnight.] SOUND, EXCEPT THOSE SOUNDS THAT ARE ELECTRONICALLY AMPLIFIED, CREATED BY SPORTING EVENTS (EXCEPT TRAP SHOOTING, SKEET SHOOTING, OR OTHER TARGET SHOOTING), ENTERTAINMENT EVENTS AND OTHER PUBLIC GATHERINGS OPERATING UNDER PERMIT OR PERMISSION OF THE APPROPRIATE LOCAL JURISDICTION. THIS INCLUDES BUT IS NOT LIMITED TO ATHLETIC CONTESTS, AMUSEMENT PARKS, CARNIVALS, FAIRGROUNDS, SANCTIONED AUTO RACING FACILITIES, PARADES, AND PUBLIC CELEBRATIONS. THIS EXEMPTION ONLY APPLIES BETWEEN THE HOURS OF 7 AM AND MIDNIGHT. (N) TRAP SHOOTING, SKEET SHOOTING, OR OTHER TARGET SHOOTING BETWEEN THE HOURS OF 9 AM AND 10 PM ON ANY RANGE OR OTHER PROPERTY OF A SHOOTING SPORTS CLUB THAT IS CHARTERED AND IN OPERATION AS OF JANUARY 1, 2001. THIS EXEMPTION DOES NOT APPLY IN ALLEGANY, ANNE ARUNDEL, BALTIMORE CITY, CALVERT, CHARLES, GARRETT, HOWARD, MONTGOMERY, ST. MARY'S AND WASHINGTON COUNTIES.</p>
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Proposed Model Checklist for Possible Noise Issues

Draft June 7, 2002

The intent of the following checklist is to direct the attention of developers and government review personnel to the consideration of potential noise sources in zoning and permitting situations. The evaluation is intended to be conducted by the applicant under most circumstances. The local government would require a certification by the applicant and review the material submitted by the applicant.

Most of the evaluations should be possible without the need for an acoustical consultant through the use of charts and graphs of noise attenuation over distance. Additional sound reductions could be projected with manufacturers sound attenuation packages or natural environmental situations such as vegetation. Standard charts should be available, or could be constructed, to address most situations.

Complex issues could require the services of an acoustical engineer, but this burden should be placed on the developer.

A disclaimer would be required in the approval of a project or activity by the local government that stated that the approval of the permit by the local government does not relieve the applicant of responsibility for noise compliance and that the applicant will be solely responsible for adhering to the noise standards of the State and local government.

Zoning Issues

Question	yes	no
Are actual or potential uses of properties within a distance of the proposed zoning that could be negatively affected by a noise source?		
Are any zoning overlays being considered that would allow more noise than is typically associated with the authorized zoning classification or use?		
Can restrictions be placed on the zoning to restrict noise generation?		
Are there any existing natural or anthropogenic buffers such as buildings, open space, roads, trees, etc. between the potential source and receiving properties?		
Will the proposed zoning have a potential impact on adjacent local jurisdictions, counties or states?		
Are there sensitive uses in existence on adjacent properties such as schools, hospitals, nursing homes, and residences?		
What noise generation activities are in existence on adjoining properties?		

**Model Program for the Evaluation
of Noise in
Permit and Zoning Review Considerations**

DRAFT

June 7, 2002

Concepts

The expansion of development into suburban and rural areas will increase noise levels.

Revitalization of older communities will also place noise sources in closer proximity.

Prevention of noise, or its minimization, is more cost effective and less of a burden on regulators than corrective measures.

Plan

It is proposed that local governments be encouraged to establish a process for the review of their proposed actions, much as would be required under Environmental Impact Statements where federal funds are involved.

The burden of proof would be placed primarily upon the developer to demonstrate that the proposed project would be within compliance of local, county, and state standards. Basic noise attenuation charts could be utilized to estimate projected offsite noise based upon manufacturers specifications. Where more complex conditions exist, developers would be required to have offsite noise levels estimated by an acoustical consultant.

Ultimate burdens of compliance would remain with the generator of the noise. Liability would remain with the developer or property owner.

This process would be promoted through a local government review process that would include the utilization of one or more checklists in assessing potential noise sources associated with the project or activity. Zoning evaluations would be more general in nature.

Question	yes	no
Building Permits		
What noise generating equipment or operations could be associated with the proposed building?		
What is the normal background level of noise in the area? (Note: while not regulatory in nature, any noise that is more than 6 dB above ambient will be perceived as a possible source of complaints)		
Will any of the noise sources be continuous over a 24-hour period and interfere with the State's goal of 55 L _{dn} for background levels?		
Will the proposed noise source add significantly to the background noise levels?		
Will the HVAC unit(s) generate offsite noise exceeding standards?		
Will loading docks be used at night and could they impact adjacent residential property?		
Will the trucks be using backup alarms at night?		
Are trucks with refrigeration units anticipated to be making deliveries? – at night?		
Will trucks be left running for extensive hours while loading or unloading?		
Will forklifts with warning alarms be used?		
Are dumpsters located where they can be unloaded at times that will not be disruptive to adjacent residential properties?		
Could the facility be relocated or rearranged on the site in a manner that would minimize impacts on adjacent properties?		
Will there be an external trash compactor?		
Will loud speakers be used to communicate with yard workers?		
Is there the potential for low frequency noise components that could induce vibrations?		
Will street sweepers be used to clean the parking lot? Can the sweeping be accomplished during daytime hours?		
Will animals be a potential noise source – e.g. dogs at a kennel, peacocks, or chickens?		
Activity Permits		
What noise generating activities could be associated with the proposed function?		
Will there be outside entertainment?		
Will there be loud speakers?		
Will amplified music be involved?		
Are there extenuating circumstances that could accentuate the perception of noise such as open fields or open water?		
Will exhibition vehicles be operated? (e.g. tractor pulls, jet dragsters?)		
Will the site activity begin before the defined daytime hours – e.g. 7:00 AM?		
Will the activity extend into defined nighttime hours – e.g. 10:00 PM?		
Will the activity be on a school night and interfere with normal resting hours?		
Will the character of the noise being generated have a discrete tone or pulsating nature that could accentuate its perception and annoyance? For example, a pure tone, or an impulse sound such as gunshots or barking dogs?		
Are sound attenuating options available for the proposed activity or equipment?		
Can the hours of operation be managed to minimize the effects on neighboring properties?		

**Environmental Noise Advisory
Council and Interagency
Noise Control Committee
Affiliations**

Reaffirmed

	Current Law	Council Proposal of Jan 2002	House Bill 1421	Voting Potential
Environmental Noise Advisory Council				
Acoustical Society of America or INCE	1	1	1	
MD Medical & Chirurgical Faculty	1	1	1	
University of Maryland	1	1	1	
Public	2	2	3	
MD Municipal League	0	1	1	
MD Association of Counties	0	1	1	
Chamber of Commerce	0	2	2	
Environmental Group	0	0	1	
Voting Members	5	9	11	
Senate (non voting)	0	1	1	
House (non voting)	0	1	1	
Total	5	11	13	
Interagency Noise Control Committee				
Dept of the Environment	1	1	1	
Dept of Transportation	1	1	1	
Dept of Natural Resources	1	1	1	
Dept of Planning OR SMART GROWTH	1	1	1	
Dept of Health and Mental Hygiene	0	1	1	
Dept of Labor, Licensing & Regulation	0	1	1	
Dept of Business & Economic Development	0	1	1	
Total	4	7	7	

Note: "Public" under current law includes -
Chamber of Commerce, Transportation
Federation (defunct), and MD
Environmental Trust (no longer
applicable)

Note: Potentials for representatives to
vote on a subject in a particular orientation
(e.g. business or environment) is an
individual determination.

Tentative

MEETING AGENDA
ENVIRONMENTAL NOISE ADVISORY COUNCIL
AND THE INTERAGENCY NOISE CONTROL COMMITTEE

July 1, 2002
9:00 AM to 12:00 PM
MDE Chesapeake Conference Room

09:00 Welcome and Introductions

09:05 Approve Minutes of the May and June meetings

09:10 News updates

- Pleasant Valley Race Track/Mt. Lake Park Regulations
- Worcester County – Dept of Development Review and Permitting
- Frederick City noise ordinance

09:15 Final resolution and recommendations:

- ✓ 1) Legislation to alter membership on the Council and Committee, and also reconfirming the broadening of the Council authority.
(with Del. Hubers input from contact with Del Morhaim and others)
- ✓ 2) Elimination of the residential HVAC exemption from the statute
(review of emailed material – and input from Maryland State Builders Assoc)
- ✓ 3) Local government duties and responsibilities
(require consideration or encourage consideration, or nothing)

✓ 09:45 Proposed change in regulations concerning household tool issue
(exempt emergency situations)

✓ 10:15 +/- Break

✓ 10:30 Proposed change to limit State authority to commercial pet operations and allow local animal control to handle pet noise

✓ 11:15 Issue Introduction - Dirt Bikes and Off Road Vehicles – State or County?

11:30 Public Comment Period

12:00 Adjourn

Future meetings:

September	9 th – Montgomery Park (new MDE location) hopefully
October	7 th
November	4 th
December	2 nd

DRAFT MINUTES FOR JUNE 7, 2002 NOISE COUNCIL/COMMITTEE MEETING

Luz, Powell, Mark Paflo, MNCPPC, Parrish, Harman, Jarinko, Grabau, Sherbert, Dr. Cherry, Erin Dougherty, MACO, Ms. Donoho, MML, Monica James, MD Chamber of Commerce, Robin Grove, etc.

Past Business

Mr. Harman explained that the submission date for proposed legislation by MDE is September 3, 2002. He described the circumstances of the auto racetrack outside of the Town of Mountain Lake Park in Garrett County. Mr. Jarinko stated that the Town believes its noise regulation extends ½ mile beyond the Town's boundaries. Mr. Harman noted that Worcester County requested a meeting with MDE staff to discuss noise issues. He also noted that Frederick City requested assistance with draft revisions to the City's noise regulations. The regulations included requirements on "boom boxes" and nightclubs as a result of recent complaints.

Roles of Counties in Noise Control

Mr. Harman distributed a model checklist that could be used for projects for addressing compliance with noise regulations. Mr. Powell recommended that the document include a statement to be signed by the developer, certifying that noise issues were considered in the project. It was noted that local jurisdictions may adopt more stringent noise standards than the State standards. There was discussion by the Council and Committee about implementation of local planning requirements. The members discussed options including amendment of the statute to require local governments to "consider" noise issues. Ms. Dougherty said that local officials were over-burdened and would oppose a legislative mandate. She recommended instead a pilot project targeted towards counties with a high incidence of noise complaints so that. The project could help identify how best to implement the program. Ms. advised that MML would hold a workshop on noise planning in the fall. She said that the local planners would be encouraged to be proactive, and that the checklist would be beneficial. Dr. Luz suggested a policy statement in the statute that encourages local governments to consider noise issues in planning development. There was discussion about the likelihood that amendments to the statute might be proposed by Senator Stone or Delegate Grossfeld in the next legislative session. It was recommended that developers be required to consider noise from traffic within the proposed development and to consider nearby transportation system noise.

Mr. Harman referenced the recent case involving the murder of two police officers who responded to a noise complaint. Mr. Harman wondered if the statute should be changed to require local police involvement in investigating complaints. There was discussion about the current level of involvement of police officials. Ms. recommended that MDE discuss the issue with the police chiefs' association. Dr. Luz noted that in New Jersey, local police enforcement is an option; officers must complete a course at Rutgers University. Mr. Jarinko explained that most complaints are initially made to police, who will usually require noise abatement when it is accompanied by another problem such as disruptive behavior. In cases where noise is the only issue complained of, local police usually do not enforce noise standards.

HVAC Discussion

Mr. Harman distributed handouts about noise from HVAC units. There was a discussion about this issue because the statute specifies a noise standard for these units. Mr. Harman explained how the units could be sited on building lots and the resulting noise levels. He noted that most units emitted between 72 to 80 dB of sound. Mr. Powell pointed out the effect of Smart Growth on the problem of residential noise. Mr. Jarinko discussed use of barriers and other attenuation methods. The issued of noise from multiple units was also discussed. Mr. Harman recommended that the Council consider a proposed repeal of the section in the statute regulating these units. Mr. Powell and Mr. Harman will discuss the issue with representatives of the homebuilders' association. Dr. Luz recommended consideration by MDE of a website to enable HVAC installers to select proper sites for these units. There was a discussion about grand-fathering existing units.

Noise Issues for the Council to Consider

There was a discussion about the list of issues that was distributed at the May 13th meeting. Mr. Grove emphasized that the information about the issues did not represent proposals by MDE, but a working document with ideas as to what was needed to address particular noise problems for the Council to consider. It was decided that the issues would be presented to the Council on an individual, case-by-case basis. Mr. Harman will prepare a hand out for the next meeting.

It was decided that proposals involving Council/Committee membership, and noise from HVAC units, household tools, and domestic animals would be prepared for approval at the next meeting. In addition, MDE will draft language describing a policy encouraging local governments to evaluate the noise effects of proposed development. Also, a proposal to amend the regulations concerning gun clubs will be proposed. This is needed to bring the regulation into conformance with the statute.

Next Meeting Date

The next meeting will be held on July 1, 2002.

DRAFT
Environmental Noise Advisory Council
And
Interagency Noise Advisory Committee
Meeting Minutes
May 13, 2002 9:00 a.m.
Chesapeake Conference Room, MDE

Members:

Council:

Delegate Nancy Hubers	ex officio	present
Nancy Benner	Public	present
Dr. George Luz, Chair	Acoustical Society	present
Senator John Astle	ex officio	absent
Michael Powell	Public (business)	present
Dr. Fred Schmitz, Vice Chair	U of MD	present
Dr. Jerrie Cherry	MedChi	present

Committee:

Bill Grabau	MOSH	absent
Robin Grove, Chair	MDE	present
Jesse Heier	Governor's Office	absent
Ken Polcak	MDOT	present
Fred Sherbert	DNR	absent
David Roberts	DHMH	absent

Guests:

See attached attendance sign-in sheet.

MDE Staff:

George Harman
 Bill Parrish

The twelfth official meeting of the Environmental Noise Advisory Council and Interagency Noise Committee was convened at 9:00 AM on May 13, 2002 at the Department of the Environment.

Agenda:

See the attached agenda for this meeting.

Introductions

Dr. Luz opened the meeting with introductions of the Council and Committee members, guests, and MDE staff. Delegate Nancy Hubers has joined the Council as an ex officio member replacing Delegate Jake Mohorovic. She is a member of the House of Delegates Appropriations Committee and represents the 6th Legislative District.

Minutes of the April Meeting

Dr. Luz and Ms. Candace Donoho requested changes in the minutes to better reflect some of their comments at the meeting. Mr. Powell to submit written comments. Mr. Harman distributed copies of an updated Council and Committee membership. He noted that Mr. Roberts, representing DHMH, had resigned his position there. MDE has requested the Secretary of DHMH to appoint a replacement for Mr. Roberts.

Delegate Hubers asked about the circumstances behind HB 1421 and who drafted the legislation. It was explained to her in discussion that a bill was drafted and approved by the Council and was provided to Delegate Morhaim. However, Delegate Morhaim's bill was an amended version of the Council's bill. The major difference between the two bills was that HB 1421 expanded the membership of the Council to include representatives from environmental and citizens' groups. Mr. Powell noted that he opposed the amended bill because the addition of these two groups upset the balance between the numbers of business and public/environmental representatives. Mr. Grove noted that, because the bill was introduced late in the session and was controversial, no action was taken on it. Dr. Schmitz noted that, at the previous meeting, there was considerable discussion about moving forward with a bill for the next Session so that it would be able to be adequately addressed. Mr. Powell added that the Council discussed ways to improve the noise program by promoting more preventative options such as planning and zoning. In order for these options to be successful, the Council believed that local governments and the Department of Planning should be represented on the Council. The minutes of the previous meeting were approved pending the requested amendments.

Presentation of new summary document listing noise issues

Mr. Harman distributed a table listing issues under consideration by the Department for review by the Council and Committee. Mr. Grove commented that the information in the table was not intended to reflect a position of the Department on any of the issues, but a neutral statement of the issues.

Continued Discussion of Council and Committee Membership

Mr. Powell recommended that the Council reaffirm its position on the bill that represented the consensus, prior to Delegate Morhaim's amendments adding more members. There was extended discussion about membership on the Council and the relative balance between public interest and business groups. A table was drawn-up showing the distribution of members by various groupings. A copy of the information included on the table is attached to these minutes.

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It was decided to defer the discussion on membership until the next meeting. Delegate Hubers offered to contact Delegate Morhaim to discuss his concerns.

Roles of Counties in Noise Control

The discussion opened on the topic of the application of noise standards where mixed-use zoning is encouraged. It was pointed out by Mr. Noonan that there is a need to carefully consider effects of changes in noise standards on Smart Growth proposals where traditional residential zoning is separate and isolated from other uses, as well as other new types of zoning. Mr. Powell noted that the residential standards would apply in cases where a commercial activity was associated on the first floor of a multi-story, mixed-use building. Mr. Grove pointed out that the Department's proposal before the Council was to require local governments to "consider" compliance with noise standards when approving development, rather than a more regulatory approach with sanctions.

Mr. Staiano suggested that "we need to protect people where they are", and, unless a mixed-use structure included balconies, for instance, noise from outside should be measured inside the building. Dr. Luz stated that protecting people where they are is the opinion of many noise control engineers, and that the use of property line standards is naïve when inside the house noise limits are appropriate. Dr. Schmitz was concerned about the potential for conflict between noise pollution control and Smart Growth redevelopment. Mr. Noonan acknowledged that, in some cases, a trade-off is required between noise and redevelopment in urban areas. There was general agreement that these issues were complex and need to be carefully considered in decisions about noise standards.

Mr. Grove mentioned a recent meeting that MDE staff had with MACO planners to discuss planning issues related to noise. He pointed out that communities differ in their capabilities in dealing with noise compliant issues and in planning development. He suggested that additional meetings would need to be held to discuss planning issues and how best to address them. Ms. Erin Dougherty explained that guidelines for reviewing development projects would benefit the County planner, and that these would be viewed more favorably than mandated requirements from the State. Mr. Grove pointed out that the Council had heard from many citizens who attended past meetings to provide public input. The citizens related examples where inadequate development controls at the local level created serious noise problems for them. They became frustrated by their unsuccessful attempts to have their problems addressed by local authorities and were looking to the State to provide solutions. Mr. Grove explained that the local and State authorities, who both represent the citizens, should come down on the same side of issues such as these. It was decided that MDE would draft proposed guidelines for local development review that could be discussed at the next meeting.

There was a brief discussion concerning the issue of the statutory exemption for residential HVAC units. Mr. Harman explained that he obtained only limited information from HVAC equipment manufacturers, on noise levels generated by these units. It was decided that the issue would be discussed at the next meeting.

Next Meeting Date

The next meeting will be held on June 7 at 9 AM.

Basic Noise Attenuation

Sound pressure level measured at some reference distance from the sound source decreases 6 dB with each doubling of the distance under theoretical conditions. As an example, 72 dB measured at 6 feet from the sound source will decrease 6 dB when measured at 12 feet from the source. If the distance is doubled again to 24 feet the measured sound level will decrease another 6 dB. Thus, at 12 feet the reading would be 66 dB and at 24 feet, the reading would be 60 dB. This pattern of reduction will continue until such time as the prevailing ambient area sound level becomes dominant.

The formula for calculating sound level reduction from a given sound source with a known reference measurement to any distance from the source is as follows:

$$\text{Reduction in dB with distance} = 20 \log r_1/r_2$$

Where: r_1 is the reference distance with a known dB level.

And: r_2 is the distance in question, such as 75 feet.

Example: 6 feet from a sound source the measured level is 72 dB. What is the expected reduced sound level at 75 feet?

$$\text{dB reduction} = 20 \log 6'/75'$$

$$\text{dB} = 20 \log .08$$

$$\text{dB} = 20 \times -1.0969$$

$$\text{dB} = -21.93 \text{ dB}$$

$$\text{dB at } r_2 = 72 \text{ dB} - 21.93 \text{ dB} = 50.06 \text{ dB}$$

Additional examples:

72 dB is measured at 6 feet then at 12 feet dB = 66 dB

at 24 feet dB = 60 dB

at 48 feet dB = 54 dB

at 96 feet dB = 48 dB

80 dB is measured at 6 feet then at 12 feet dB = 72 dB

at 24 feet dB = 66 dB

at 48 feet dB = 60 dB

at 96 feet dB = 54 dB

Sound levels can **easily** be further reduced by 8 to 15 dB by installation of a properly designed and installed sound barrier or partial enclosure.

From: "Carolyn Kuciara" <ckuciara@mde.state.md.us>
To: <cshaw2@alleghenyenergy.com>, <George.Luz@amedd.army.mil>, <peppinr@asme.org>, <thomas.e.benassi@bge.com>, <oglet@co.mo.md.us>, <jcherry101@comcast.net>, <mharton@comcast.net>, <DAVIDR@dnhm.state.md.us>, <zeleskc@dnhm.state.md.us>, <fsherbert@dnr.state.md.us>, <mcdavis@dnr.state.md.us>, <spinners@dol.net>, <erniekent@earthlink.net>, <fschmitz@eng.umd.edu>, <stc921jhnsn@erols.com>, <valeriec.mdfb@erols.com>, <burner@friend.ly.net>, <ronelson@friend.ly.net>, <mpowell@gflaw.com>, <ssidh@gov.state.md.us>, <david_rudolph@house.state.md.us>, <nancy_hubers@house.state.md.us>, <sharon_grosfeld@house.state.md.us>, <wheeler_baker@house.state.md.us>, <sandyw@iximd.com>, <staff@jphuntinglodge.com>, <jmiedusiewski@mail.semmes.com>, <michael_k_begly@md.northgrum.com>, <MJJames@MDChamber.org>, <EDOUGHERTY@MDCOUNTIES.ORG>, "Dave Jarinko" <djarinko@mde.state.md.us>, "Heather WOODS" <hwoods@mde.state.md.us>, "Robert FIELD" <rfield@mde.state.md.us>, <CandaceD@mdmunicipal.org>, <jnoonan@mdp.state.md.us>, <staianoengrg@mindspring.com>, <jcaffey@mmhaonline.org>, <Mark.Pfefferle@mncppc-mc.org>, <dshonerd@multistate.com>, <william.grabau@osha.gov>, <Dorothy.Guy@piperrudnick.com>, <roger.truitt@piperrudnick.com>, <john_astle@senate.state.md.us>, <kpolcak@sha.state.md.us>, <ACE@stateside.com>, <mbabuild@toad.net>, <rgsmith@venable.com>, <cfsf123@yellowbananas.com>
Date: 6/13/02 10:44AM
Subject: July 1, 2002 Noise Meeting

The next Noise meeting is scheduled for Monday, July 1, 2002 from 9 a.m. to Noon in the Chesapeake Conference Room at the Maryland Department of the Environment at 2500 Broening Highway in Baltimore.

Please note that there will not be an August Noise meeting. The September 9th meeting should be in our new location at Montgomery Park. Directions to Montgomery Park will be provided later.

An agenda for the upcoming meeting and the minutes from the past two meetings will follow.

Comments on the text and questions in the Model Review document are strongly encouraged.

CC: "Bill Parrish" <bparrish@mde.state.md.us>, "George Harman" <gharman@mde.state.md.us>, "Robin Grove" <rgrove@mde.state.md.us>

Environmental Noise Advisory
Council and Interagency
Noise Control Committee
Affiliations

	Current Law	Council Proposal of Jan 2002	House Bill 1421	Voting Potential
Environmental Noise Advisory Council				
Acoustical Society of America or INCE	1	1	1	
MD Medical & Chirurgical Faculty	1	1	1	
University of Maryland	1	1	1	
Public	2	2	3	
MD Municipal League	0	1	1	
MD Association of Counties	0	1	1	
Chamber of Commerce	0	2	2	
Environmental Group	0	0	1	
Voting Members	5	9	11	
Senate (non voting)	0	1	1	
House (non voting)	0	1	1	
Total	5	11	13	
Interagency Noise Control Committee				
Dept of the Environment	1	1	1	
Dept of Transportation	1	1	1	
Dept of Natural Resources	1	1	1	
Dept of Planning OR SMART GROWTH	1	1	1	
Dept of Health and Mental Hygiene	0	1	1	
Dept of Labor, Licensing & Regulation	0	1	1	
Dept of Business & Economic Development	0	1	1	
Total	4	7	7	

Note: "Public" under current law includes -
Chamber of Commerce, Transportation
Federation (defunct), and MD
Environmental Trust (no longer applicable)

Note: Potentials for representatives to vote
on a subject in a particular orientation (e.g.
business or environment) is an individual
determination.

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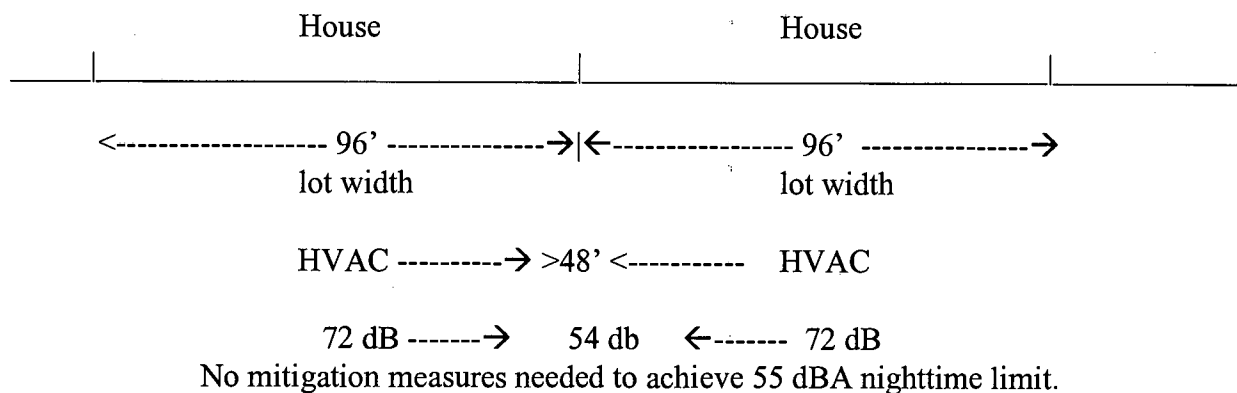
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at 96 feet dB = 54 dB

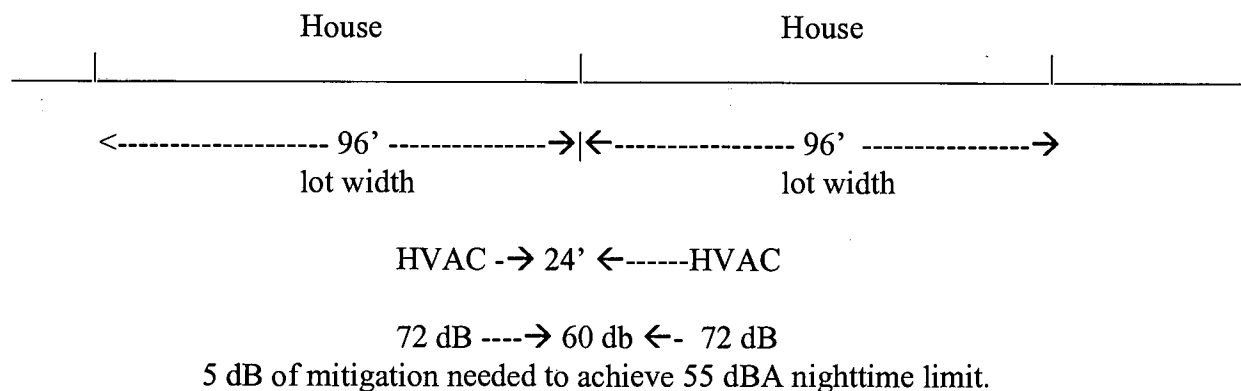
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and installed sound barrier or partial enclosure.

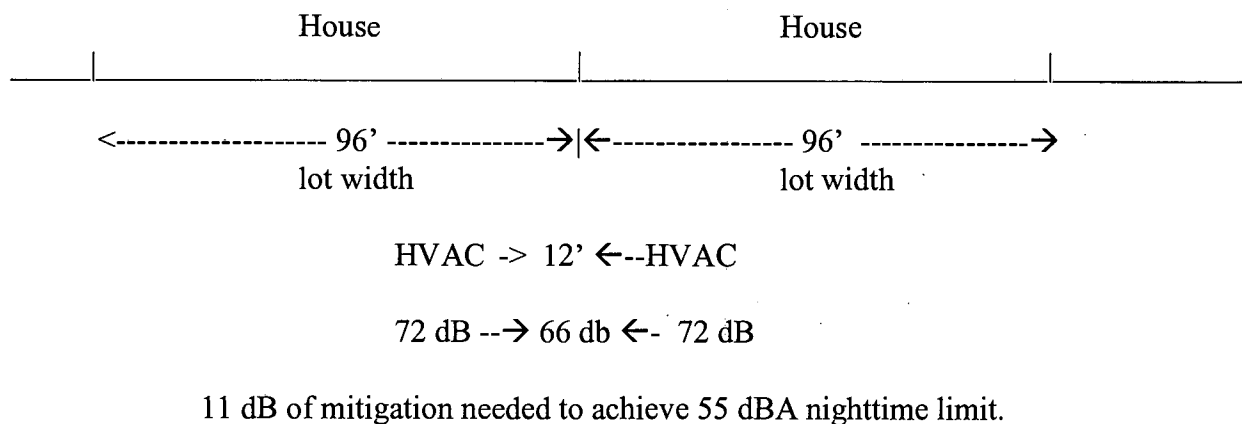
Example 1: Placement of house in the center of a 96' lot with equipment rated at 72 dBA



Example 2: Placement at 24' from lot line



Example 3: Placement at 12' from lot line



Implication: Wide lots may be preferable to narrow lots for noise concerns, however, wide lots

require longer impervious streets and more stormwater runoff management.

**Model Program for the Evaluation
of Noise in
Permit and Zoning Review Considerations**

DRAFT

June 7, 2002

Concepts

The expansion of development into suburban and rural areas will increase noise levels. Revitalization of older communities will also place noise sources in closer proximity. Prevention of noise, or its minimization, is more cost effective and less of a burden on regulators than corrective measures.

Plan

It is proposed that local governments be encouraged to establish a process for the review of their proposed actions, much as would be required under Environmental Impact Statements where federal funds are involved.

The burden of proof would be placed primarily upon the developer to demonstrate that the proposed project would be within compliance of local, county, and state standards. Basic noise attenuation charts could be utilized to estimate projected offsite noise based upon manufacturers specifications. Where more complex conditions exist, developers would be required to have offsite noise levels estimated by an acoustical consultant.

Ultimate burdens of compliance would remain with the generator of the noise. Liability would remain with the developer or property owner.

This process would be promoted through a local government review process that would include the utilization of one or more checklists in assessing potential noise sources associated with the project or activity. Zoning evaluations would be more general in nature.

Proposed Model Checklist for Possible Noise Issues

Draft June 7, 2002

The intent of the following checklist is to direct the attention of developers and government review personnel to the consideration of potential noise sources in zoning and permitting situations. The evaluation is intended to be conducted by the applicant under most circumstances. The local government would require a certification by the applicant and review the material submitted by the applicant.

Most of the evaluations should be possible without the need for an acoustical consultant through the use of charts and graphs of noise attenuation over distance. Additional sound reductions could be projected with manufacturers sound attenuation packages or natural environmental situations such as vegetation. Standard charts should be available, or could be constructed, to address most situations.

Complex issues could require the services of an acoustical engineer, but this burden should be placed on the developer.

A disclaimer would be required in the approval of a project or activity by the local government that stated that the approval of the permit by the local government does not relieve the applicant of responsibility for noise compliance and that the applicant will be solely responsible for adhering to the noise standards of the State and local government.

Zoning Issues

Question	yes	no
Are actual or potential uses of properties within a distance of the proposed zoning that could be negatively affected by a noise source?		
Are any zoning overlays being considered that would allow more noise than is typically associated with the authorized zoning classification or use?		
Can restrictions be placed on the zoning to restrict noise generation?		
Are there any existing natural or anthropogenic buffers such as buildings, open space, roads, trees, etc. between the potential source and receiving properties?		
Will the proposed zoning have a potential impact on adjacent local jurisdictions, counties or states?		
Are there sensitive uses in existence on adjacent properties such as schools, hospitals, nursing homes, and residences?		
What noise generation activities are in existence on adjoining properties?		

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Permitting Issues

DRAFT June 7, 2002

Question	yes	no
Building Permits		
What noise generating equipment or operations could be associated with the proposed building?		
What is the normal background level of noise in the area? (Note: while not regulatory in nature, any noise that is more than 6 dB above ambient will be perceived as a possible source of complaints)		
Will any of the noise sources be continuous over a 24-hour period and interfere with the State's goal of 55 L _{dn} for background levels?		
Will the proposed noise source add significantly to the background noise levels?		
Will the HVAC unit(s) generate offsite noise exceeding standards?		
Will loading docks be used at night and could they impact adjacent residential property?		
Will the trucks be using backup alarms at night?		
Are trucks with refrigeration units anticipated to be making deliveries? – at night?		
Will trucks be left running for extensive hours while loading or unloading?		
Will forklifts with warning alarms be used?		
Are dumpsters located where they can be unloaded at times that will not be disruptive to adjacent residential properties?		
Could the facility be relocated or rearranged on the site in a manner that would minimize impacts on adjacent properties?		
Will there be an external trash compactor?		
Will loud speakers be used to communicate with yard workers?		
Is there the potential for low frequency noise components that could induce vibrations?		
Will street sweepers be used to clean the parking lot? Can the sweeping be accomplished during daytime hours?		
Will animals be a potential noise source – e.g. dogs at a kennel, peacocks, or chickens?		
Activity Permits		
What noise generating activities could be associated with the proposed function?		
Will there be outside entertainment?		
Will there be loud speakers?		
Will amplified music be involved?		
Are there extenuating circumstances that could accentuate the perception of noise such as open fields or open water?		
Will exhibition vehicles be operated? (e.g. tractor pulls, jet dragsters?)		
Will the site activity begin before the defined daytime hours – e.g. 7:00 AM?		
Will the activity extend into defined nighttime hours – e.g. 10:00 PM?		
Will the activity be on a school night and interfere with normal resting hours?		
Will the character of the noise being generated have a discrete tone or pulsating nature that could accentuate its perception and annoyance? For example, a pure tone, or an impulse sound such as gunshots or barking dogs?		
Are sound attenuating options available for the proposed activity or equipment?		

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Can the hours of operation be managed to minimize the effects on neighboring properties?

--	--

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From: "Luz, George A Dr USACHPPM" <george.luz@us.army.mil>
To: "kpolcak@sha.state.md.us" <kpolcak@sha.state.md.us>
Date: 6/13/02 11:22AM
Subject: FW: Planning for 2 October Meeting of MD Municipal League

> -----Original Message-----

> From: Luz, George A Dr USACHPPM
> Sent: Thursday, June 13, 2002 11:16 AM
> To: 'kpolcak@sha.state.md'
> Subject: Planning for 2 October Meeting of MD Municipal League

>

> Ken,

>

> At my request, Candace Donoho has set aside one hour for a discussion of
> noise planning at the 2 October meeting of the MD Municipal League in
> Annapolis. I would like to propose an agenda for her consideration, and I
> would like to propose that you be one of four presenters.

>

> My idea is to introduce the concept of noise planning by focusing on the
> commonest noise source, traffic noise.

>

> 1. Dan Reichard, a recent Master's graduate from Towson U., would present
> his thesis research in which he looked at the diurnal pattern of noise at
> three points along a north-south line running through the southern
> metropolitan area. One point, a pure traffic noise pattern, was in an
> Army housing area 100 feet off Ft Meade Road. The second point, a
> predominantly aircraft pattern, was on the DNL 65 contour in Elkridge, 3
> miles off the BWI runway. The third point was in a quiet wooded
> residential area of Catonsville, 2 miles from I-95 and 9 miles from BWI.
> The point of the thesis was to determine which pattern dominated in
> Catonsville. It was traffic.

>

> TEACHING POINTS:

>

> 1. Noise can be described by maximum or LEQ
> 2. Background noise varies systematically during the day and night.
> 3. Traffic noise determines the ambient in populated areas.

>

> 2. Catherine Stewart, another Towson U. graduate, would present her these
> research showing the relationship between the number of people per square
> mile and the day-night average sound level.

>

> TEACHING POINTS

>

> 1. Background noise varies with the number of cars around.
> 2. DNL is the USEPA's recommended environmental noise descriptor.

>

> 3. You would give a presentation on the FHWA Traffic Noise Model, giving
> examples of where it has been used for noise planning in Maryland.

>

> TEACHING POINTS:

>

> 1. It is possible to model traffic noise from information available
> from the Department of Transportation.

- > 2. Any other point you would like to make.
- >
- > 4. Dave Jarinko would finish up with a discussion of the other noise
- > sources that have resulted in complaints from MD citizens.
- >
- > TEACHING POINTS
- >
- > 1. The annoyance of intrusive sounds depends, in part, on the
- > ambient background.
- > 2. With some simple equations, it is possible to model the noise
- > from other sources beside highways and airports.
- >
- > Currently, I have an acceptance from everyone except you. Please get
- > back to me if you are available and willing to present.
- >
- > George A. Luz, Ph.D.
- > Program Manager
- > Environmental Noise
- > U.S. Army Center for Health Promotion and Preventive Medicine
- > 5158 Blackhawk Road
- > Aberdeen Proving Ground, MD 21010-5403
- > 410-436-3829
- > FAX 410-436-1026
- > DSN 584-
- >

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MEETING AGENDA
ENVIRONMENTAL NOISE ADVISORY COUNCIL
AND THE INTERAGENCY NOISE CONTROL COMMITTEE

June 7, 2002
9:00 AM to 12:00 PM
MDE Chesapeake Conference Room

- 09:00 Welcome and Introductions
- 09:05 Minutes of the May meeting
- 09:10 MDE/Governor's legislative deadlines – Sept 3
- 09:15 Final resolution of recommendations for legislation to alter membership on the Council and Committee, and also reconfirming the broadening of the Council authority.
- 09:45 Roles of Counties in Noise Control
- 1- Continuation of consideration of possible changes in the statute to require counties and local governments to “consider” noise in permitting and zoning matters.
 - 2- Possible Check List for use by counties
 - 3- New concept – local police handle domestic noise issues, or accompany state inspector
- 10:15 +/- Break
- 10:30 Proposal to eliminate exemption for residential HVAC – George Harman
- 11:30 Public Comment Period
- 12:00 Adjourn
- Future meetings:
- | | |
|-----------|--------------------------|
| July | 1 st , or 8th |
| August | 5th |
| September | 9th |
| October | 7th |
| November | 4th |
| December | 2 nd |

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DRAFT
Environmental Noise Advisory Council
And
Interagency Noise Advisory Committee
Meeting Minutes
April 15, 2002 9:00 a.m.
Chesapeake Conference Room, MDE

Members:

Council:

Senator John Astle	ex officio	absent
Nancy Benner	Public	present
Dr. George Luz, Chair	Acoustical Society	present
Delegate Jake Mohorovic	ex officio	absent
Michael Powell	Public (business)	present
Dr. Fred Schmitz, Vice Chair	U of MD	present
Dr. Gerry Cherry	MedChi	present

Committee:

Bill Grabau	MOSH	present
Robin Grove, Chair	MDE	present
Jesse Heier	Governor's Office	absent
Ken Polcak	MDOT	present
Fred Sherbert	DNR	present
David Roberts	DHMH	absent

Guests:

See attached attendance sign-in sheet.

MDE Staff:

Robert Field
George Harman
Dave Jarinko
Bill Parrish

The eleventh official meeting of the Environmental Noise Advisory Council and Interagency Noise Committee was convened at 9:00 AM on April 15, 2002 at the Department of the Environment.

Agenda:

See the attached agenda for this meeting.

Introductions

Dr. Luz opened the meeting with introductions of the Council and Committee members, guests, and MDE staff. This was the first meeting for new Council member Dr. Gerry Cherry, representing the Medical Chirurgical Faculty.

Minutes of the January Meeting

The audiotapes of the discussion at the meeting are missing.

Discussion of Legislative and Regulatory Proposals Requested by the Council

a. Council and Committee – Membership

Mr. Grove and Mr. Harman provided a briefing on the proposed legislation adopted at the December 3, 2001 meeting to amend the noise statute. The proposed changes were intended to increase the number of members on the Council and Committee, expand representation to include additional stakeholders, and designate 5-year terms for members of the Council. Delegate Morhaim sponsored HB 1421 which included the proposed changes. The Delegate's bill increased the number of members beyond the Council's request. As the bill was introduced late in the session, it was referred to the House Rules Committee where it died. Mr. Grove suggested that the Council consider submitting a proposed bill for the 2003 General Assembly Session, either through the Department as part of the Governor's legislative package, or through a sponsor. He noted that the Department would develop its legislative package in July.

There was discussion about HB 1421, and Mr. Powell expressed concern that the members proposed to be added to the Council's proposal by Delegate Morhaim created an imbalance between the number of business and public/environmental group members. Mrs. Benner expressed her opinion that business interests enjoy an inherent advantage over public groups regardless of the number of representatives on the Council. Dr. Luz commented that when site-specific noise issues arise, the constituency that is affected is usually limited in number, as is its influence on how the problem addressed. INSERT HERE POWELL'S ANALYSIS.

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Mr. Harman explained that regulatory changes proposed to address amendments made to the noise statute during the 2001 Session will be submitted soon. They could not be submitted for adoption during the current year's Session. The changes dealt with the exemption of gun clubs from regulation. He also noted that Delegate Jake Mohorovic, ex officio member of the Council, was replaced by Delegate Nancy Hubers.

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Ms. Dougherty expressed concern that with an increased County role, they may be required to hire noise experts to review projects and to incur liability for County decisions on noise issues. Mr. Harman explained that it was likely developers would hire noise experts to be involved in the preliminary design of projects and that the liability would rest with the expert or the developer.

Mr. Grove pointed out that the Council and Committee have heard from many citizens affected by noise, who have become frustrated because local governments failed to control noise, or efforts made were ineffective. He explained that there are two options for dealing with this problem. One option is for MDE to continue dealing with noise problems as the State's noise police. The other option would be for local governments to take responsibility for regulating noise where developers deal with planning and permitting officials on a regular basis. MDE's role would be to provide technical assistance, standards and training for local officials.

Mr. Zeleski commented that noise is a quality of life and a public health issue. He explained that noise acts as a stressor from the public health standpoint, and that regulation of this aspect is an appropriate role for the State. The quality of life aspect would be more appropriately the role of local government.

Mr. Staiano, a private noise consultant, explained from the perspective of a proposer of a project involving noise issues, local governments typically use protection of health and welfare as the criteria for approving projects. He uses the noise standards in COMAR as the criteria for noise control, and assumes that Mr. Jarinko may visit a site to measure sound levels in evaluating compliance. He finds this to be an effective way of designing projects so that they are in compliance. Mr. Staiano also explained that in some states, local governments rely on a second consultant, who is paid by the developer, to review a project's noise control plan. This process precludes the need for the local government to hire its own noise experts.

Mr. Powell commented that the Council's could provide suggestions for statutory changes that expanded the role of the local governments to include these issues. Mr. Grove agreed and recalled past discussions where it was suggested that MDE could develop a model ordinance that would be provided to the local governments. Mr. Staiano suggested that MDE could provide a checklist for local governments to use in reviewing proposed projects. Mr. Jarinko agreed and offered that he would provide technical assistance under this scenario.

Ms. Dougherty recognized the importance of a process that notifies developers upfront that they need to address potential noise problems when they begin designing a project. The next step would be for local governments to determine if developers complied. Mr. Harman stressed the importance of the zoning and special exception processes as opportunities to review impacts of noise on surrounding areas.

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Mr. Polcak noted that the Department of Transportation most often reacts to problems with noise that arise as a direct impact of transportation projects. Other related problems occur when residential development projects incompatible with transportation system noise are permitted directly adjacent to existing highways such as the Baltimore Beltway. The Department operates a \$100 million program of noise abatement to correct these kinds of problems. Better planning, zoning, and design of these new developments by local governments developers would be an effective way to prevent these problems.

c. Maryland Municipal League

Ms. Candace Donoho attended the meeting representing MML. Ms. Donoho explained that most of the noise issues that the municipal governments deal with are nuisances such as noise from gatherings, loud music, and loud vehicles including off-road vehicles. Many of the 157 municipalities do not do their own planning, zoning and permitting. She stressed that there is a middle ground between municipalities doing nothing to address noise problems, and State-mandated regulations. Ms. Donoho that a model ordinance would help municipalities be more proactive and expressed interest in working on a model. She also offered the MML's newsletters and other publications to help deliver information to the members.

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Dr. Luz referenced a document from Illinois that describes a self-help noise program.

There was a discussion about actions that the Council should take regarding recommendations to the Interim Secretary for noise legislation in the 2003 General Assembly Session. Mr. Powell recommended that the proposal recommended for the 2002 Session be re-submitted for 2003. It was decided that at the next meeting, the Council would discuss the proposal and Delegate Morhaim's bill, and develop a recommendation concerning representation on the Council.

Mr. Harman suggested that the next meeting include a discussion of any other proposals for amending the statute. He also asked the members to provide any information concerning noise standards and compliance for HVAC systems. There was discussion about inviting manufacturers, installers and homebuilders to make presentations on these systems. Mr. Harman also thought that the Council and Committee could review household tools and pets at the next meeting.

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The next meeting will be on May 13, 2002 at 9 AM.

MEETING AGENDA
 ENVIRONMENTAL NOISE ADVISORY COUNCIL
 AND THE INTERAGENCY NOISE CONTROL COMMITTEE

May 13, 2002
 9:00 AM to 12:00 PM
 MDE Patuxent Conference Room

- 09:00 Welcome and Introductions
 Presentation of new membership lists
- 09:05 Minutes of the January and April meetings
- 09:15 Presentation of new summary document listing the issues.
- 09:30 Discussion: HB 1421
 Resolution of recommendations for legislation to alter membership on the Council and
 Committee
 and
 Also reconfirming the broadening of the Council authority.
- 10:00 Roles of Counties in Noise Control
 Continuation of consideration of proposed change in the statute to require counties and
 local governments to "consider" noise in permitting and zoning matters
- 10:30 +/- Break
- 10:40 MDE investigation of residential HVAC issues
- 11:20 Selection of topics for next meeting
- 11:30 Public Comment Period
- 12:00 Adjourn
 Future meetings:

June	3rd
July	1 st , or 8th
August	5th
September	9th
October	7th
November	4th
December	2nd

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From: "David Roberts" <DavidR@dhhm.state.md.us>
To: <cshaw2@alleghenyenergy.com>, <George.Luz@amedd.ar...>
Date: Mon, May 13, 2002 2:33 PM
Subject: Re: Noise meeting Monday, May 13, 2002

To the Staff at MDE

I have resigned from state employment effective May 17.

It has been a pleasure to work with all of you.

I suggest to direct inquiries for my replacement on the Noise Panel to
Diane Matuszak, 410-767-6742.

David Roberts

CC: <bparrish@mde.state.md.us>, <djarinko@mde.state.md...

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Summary of Issues Under Consideration by the Department
For Review by the
Environmental Noise Council
and the
Interagency Noise Advisory Committee
May 13, 2002

Issue	Summary	Requires Statute Change	Requires Regulatory Change
Continuous Noise (goal versus standards)	The longstanding goal in the regulations suggests that an L_{dn} of 55 dBA should be achieved. The existing language and structure of the regulations is open for consideration for changing the 55 L_{dn} goal to a standard. This would be of concern to power plants, institutional HVAC systems, and other sources that operate 24 hours per day that have been regulated solely under the noise maximum standards.	Yes	Yes
Impulse Noise Definition (incomplete definition)	Regulations define periodic noise as having a "repetitive on-and-off characteristic" and in the standards section reduce allowable noises with these characteristics by 5 dB. A revision of the definition to specify that these noises must have a cyclical duration of less than 2 seconds is an option to conform with generally recognized acoustical terminology and provide clear guidance for compliance determinations.	No	Yes
Measurement Technique (integration period needs to be defined)	Fast L_{max} has generally been used by the Department as the measurement for obtaining maximum noise readings. Old analog meters were used with operator subjectivity. Digital meters now in use allow for the integration of sound levels over as little as $1/x^{th}$ of a second for these measurements. Current regulations are silent in this regard. Should another averaging period be used to determine maximum sound levels?	No	Yes
Agricultural Equipment Definitions	Regulations have exempted agricultural field equipment since they were established in the 1970s. The language was, however silent on non-field equipment. MDE has enforced noise standards on fixed location farm equipment throughout the program history and clarifying definitions in the regulations to clearly indicate that fixed location equipment is regulated is an option.	No	Yes
Household Tools (nighttime restrictions)	These items have been totally exempted from the regulations. Several complaints over the years involving unusual nighttime hobby hours by certain individuals suggest that the blanket exemption should	No	Yes

	be modified to exempt use of the equipment only during certain hours (e.g. 7 AM to 10 PM).		
Residential HVAC (old standards – new equipment)	The longstanding partial exemption for residential AC equipment allowing maximum noise to 70 dBA and residential heat pumps to 75 dBA is over 25 years old. New equipment should allow these exemptions to be adjusted downward or eliminated. Grandfathering of existing equipment should be considered. Total removal from the statute is recommended and any continuance of exemptions could be handled solely through the regulations.	Yes Needed before the regulations can be changed	Yes
Household pets exemption (assign domestic issues to local animal control)	There are currently no exemptions for household pets or pets held in kennels. Therefore the State is assumed to have regulatory jurisdiction over even individual dog barking complaints. MDE is proposing that it regulate only pet noises associated with commercial operations (e.g. kennels) and thus place the burden of domestic dog barking complaints on local animal control programs.	No	Yes
Public Property Exemption (should government be exempt?)	Open question – should the Department be allowed to impose standards on construction and repair work on public property? Should there be a distinction between routine and emergency work? Would this interfere with highway construction now be conducted at night?	Yes	No
Variance Costs (should the applicant pay?)	The process for obtaining a variance includes the holding of a public hearing. This entails the identification of a suitable site and the hiring of a person to record the event and prepare an official record. The Department is also required to assign a person to serve as the hearing officer and prepare a decision document. An option could be to have the applicant, which now only pays for the newspaper notice, to assume all such costs. Estimated additional costs on the applicant range from \$500 to \$2000 depending on the length and complexity of the process.	No	Yes
Auto Racing Exemption (Is the current exemption appropriate?)	Some facilities have been expanding their hours of operation and have, over time, included vehicles with louder engines and less muffling. Some citizens have requested some reduction in the hours of operation. Facilities have cited loss of competitiveness with similar facilities in adjacent jurisdictions and consistency with national racing organization standards. Options: 1- Remove the current exemption for auto racing facilities and fully regulate 2- Modify the current exemption to include limits on hours or days of operation 3- Impose requirement for mufflers for all vehicles or certain nights/hours.	No	Yes

	<p>4- Require variances or establish day and time limits for jet cars and other non competitive "show" vehicles.</p> <p>5- Leave current exemption as it is.</p>		
Gun Clubs (bring regulations in line with the law)	A 1970s regulatory exempt for gun clubs was modified by 1983 legislation, which established requirements for some clubs in some counties. The regulations were never changed and need to be brought into conformity with the law. Proposed regulatory language would mirror the language in the statute.	No	Yes Approved Jan 2002 meeting
Council Mission Statement (broaden review responsibilities)	Existing language seems to limit Council involvement in noise issues to a change in standards or limits. Previously approved and proposed language in HB 1421 would broaden the scope of the Council responsibilities to include the provision of advice "to the Department on any matter relating to noise pollution".	Yes Approved Jan 2002 meeting	No
Council and Committee Membership (broader representation)	Should the membership of these two groups be altered as previously agreed upon, or should there be additional members as proposed in HB 1421?	Yes Approved Jan 2002 meeting	No
Local Government Roles (noise in permit and zoning review)	Local governments could enhance the prevention of noise problems through directed review of potential noise sources in permit and zoning processes.	Yes	No

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ENVIRONMENTAL NOISE ADVISORY COUNCIL (05/08/02)	
Agency Representing	Member
Acoustical Society of America	George Luz, Ph.D. Program Manager Environmental Noise Program, US Army Center for Health Promotion and Preventive Medicine MCHB-TS-EEN Aberdeen Proving Ground MD 21010-5422 410-436-3829 FAX: 410-436-1026 Email: George.Luz@amedd.army.mil
Medical & Chirurgical Faculty of Maryland	Jerrie Cherry, MD 5 Devon Hill Road Apt. 1-A Baltimore MD 21210 410-377-8953 Email: jcherry101@comcast.net
Chancellor, University System of MD	Fred Schmitz, Ph.D. Dept. of Aerospace Engineering 3181 Martin Hall University of Maryland College Park MD 20742 301-405-0039 Email: fschmitz@eng.umd.edu
MD State Chamber of Commerce	Michael Powell, Esq. Gordon Feinblatt LLC 233 E. Redwood Street Baltimore MD 21202-332 410-576-4175 Email: mpowell@gfriaw.com
General public	Nancy Benner 1020 Sumter Avenue Rosedale MD 21237 410-574-1184
Maryland House of Delegates Lowe House Office Building, Room 303C 84 College Avenue Annapolis MD 21401-1991 410-841-3384 1-800-492-7122, ext. 3384 FAX: 410-841-3850 <i>6th Dist</i>	Delegate Nancy Hubers (<i>ex officio</i>) 435 Eastern Blvd., Suite B Essex, MD 21221 - 6715 410-687-1114 FAX: 410-687-0376 Email: nancy_hubers@house.state.md.us
Maryland State Senate	Senator John S. Astle (<i>ex officio</i>) James Senate Office Building Presidential Wing 110 College Avenue Annapolis MD 21401-1991 410-841-3578 Email: john_astle@senate.state.md.us

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INTERAGENCY NOISE CONTROL COMMITTEE

Maryland Occupational Safety and Health Administration	Mr. William Grabau CIH Maryland Occupational Safety and Health 1100 North Eutaw Street, Room 613 Baltimore, MD 21201
Phone	410-767-2299
Maryland Department of the Environment	Mr. Robin Grove Technical and Regulatory Services Administration Maryland Department of the Environment 2500 Broening Highway Baltimore, MD 21224
Phone	410-631-3682
the Governor's Office	Mr. Sushant Sidh Office of the Governor State House, Room 205 100 State Circle Annapolis, MD 21401
Phone	410-974-5258
Department of Transportation	Mr. Ken Polcak State Highway Administration Office of Environmental Design 707 North Calvert Street Baltimore, MD 21202
Phone	410-545-8601
Department of Health and Mental Hygiene	VACANT Department of Health and Mental Hygiene 201 West Preston Street Baltimore, MD 21201
Phone	410-767-
Department of Natural Resources	Lt. Col. John Fred Sherbert Department of Natural Resources Tawes State Office Building Annapolis, MD 21401
Phone	410-260-8882
Department of Planning	Mr. James Noonan Department of Planning 301 West Preston Street Baltimore, MD 21201
Phone	410-767-4562

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From: "Carolyn Kuciara" <ckuciara@mde.state.md.us>
To: <George.Luz@amedd.army.mil>, <DAVIDR@dhhm.state.md...>
Date: Wed, Jan 30, 2002 9:46 AM
Subject: Membership Legislation and Update of Issue Paper on Local Governments

Please find attached a memorandum outlining the two additional attachments for your review. They are (1) Statutory Changes Regarding Membership in the Committee and (2) Issue Paper No. 1 = Local Government Rules in Zoning and Permit Issuance.

If you have any questions or if I can be of any assistance, please do not hesitate to contact me by phone @ 410-631-3183 or email @ ckuciara@mde.state.md.us

CC: "Bill Parrish" <bparrish@mde.state.md.us>, "Dave J..."

MEMORANDUM
DEPARTMENT OF THE ENVIRONMENT
Technical and Regulatory Services Administration

To: Noise Council and Committee Members Date: January 28, 2002

From: George Harman

Subject: Membership Legislation and Update of Issue Paper on Local Governments

Attached are two documents discussed at the January 7th meeting, and MDE agreed to prepare and distribute. The first is a draft of proposed legislation that would change the Council and Committee membership. It was stated, at the January 7th meeting, that this proposal would be presented to the Secretary before it was distributed for possible private sponsorship. Although no official position can be offered on the legislation, the Secretary indicated that presenting the Council's recommendations for possible consideration would be acceptable. Thus, any or all of the non-governmental Council members could seek a private sponsor for the legislation. It should be noted that there is usually an early February deadline for bill submittal, and, if anyone is planning to seek a sponsor, they should do so promptly.

The second item is an updated version of the position document related to the potential for requiring local governments to incorporate consideration of noise in their zoning and permitting processes. Included in that document is a proposed change in the law that could be considered. We are planning to involve the Maryland Association of Counties and the Maryland Municipal League, as well as those involved in the building and permitting process, in a discussion of this concept following this legislative session. Any potential changes in this part of the legislation would be considered for the 2003 session.

The Department would be appreciative in hearing from any member who is planning to seek a private sponsor for the proposed membership legislation. It would also be suggested that the matter be coordinated with Council member Michael Powell, who had indicated a willingness to serve as the legislative liaison in this matter.

Attachments:

1. Statutory Changes Regarding Membership in the Committee
2. Issue Paper No. 1 -- Local Government Rules in Zoning and Permit Issuance

Issue Paper No. 1

January 28, 2002 Revision

Local Government Roles in Zoning and Permit Issuance

Issue

Noise complaints are frequently avoidable through reasonable planning and zoning decisions. Complaints received from the public are generally related to noise generating sources such as HVAC units, dumpsters, and loading docks that have been sited under zoning or permits without full regard for adjoining property impacts and uses. Prime examples are the strip malls and large box stores that have their loading docks immediately adjacent to townhomes or apartment complexes. Reorientation of the facility during site design, or the addition of sound mitigation packages that manufacturers frequently sell as add-ons for HVAC and standby generators can frequently avoid these situations.

In many circumstances, simple rearrangements of the site plan could have prevented the circumstances from causing the complaint. If the site plan could not be altered to prevent the problem, pre-construction acoustical engineering and the utilization of sound mitigation devices could be employed to avoid the need for more costly retrofit engineering. In addition to reducing the cost burden on the noise sources, the avoidance of complaints reduces the burden on the state and local governments for compliance actions, which can require extensive administrative and legal resources.

Montgomery County utilizes a simple check-off process in their zoning and permit issuance processes to have these preventative measures instituted. Mandating that this procedure be implemented by all local jurisdictions would greatly reduce the number of new noise complaints that must be addressed by local governments and the state. Benefits would also accrue to the developer in the form of reduced costs for post construction mitigation and the management of legal matters arising from complaint actions.

Laws

The existing statute (Environment Article, Title 3, provides that local governments may adopt noise control regulations that are not less stringent than those of the state. Some local jurisdictions have adopted local ordinances that are equal to, or more stringent, than the state regulations.

The existing statute in EA §3-105(b) does establish some requirements for local governments and these are outlined below:

b) Each political subdivision shall:

- (1) Send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts; and
- (2) Identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title.

Regulations

Code of Maryland Regulations (COMAR) do not contain any specific language addressing local jurisdiction duties or responsibilities in regard to zoning or planning other than to locate on their maps the applicable standards for that land use. Even this level of effort is undocumented.

The only aspect of the regulations that is associated with local land use issues is the standard for maximum allowable noise levels. This section sets standards by generalized zoning district, which are defined by local government, or in the absence of specific local land use definition, by actual use.

**Table 3 Maximum Allowable Noise Levels (dBA)
for Receiving Land Use Categories
(MEASURED AS FAST L_{MAX})**

Effective Date	Day/Night	Industrial	Commercial	Residential
	Day	75	67	65
Upon Adoption	Night	75	62	55

Proposal

It is being proposed that Environment Article, Title 3 be amended to require local governments to consider noise as an environmental pollutant prior to the institution of any zoning changes, and prior to the issuance of any permits that can be linked to the generation of a noise source. This would be accomplished by adding two requirements to EA §3-105. Specifically, the additions would be as follows:

§ 3-105. Powers and Duties of Political Subdivisions

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of JANUARY 1, 2001. ~~[July 1, 1983. However, this prohibition does not apply if the sports shooting club moves to a parcel of land that is not contiguous to the location of the club on July 1, 1983.]~~

(THE ABOVE CHANGE WAS ENACTED UNDER SB 869/ HB 1423 IN 2001)

(ii) This paragraph does not apply in Allegany, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(b) Each political subdivision shall:

(1) Send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts; and

(2) Identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title.

(3) **CONSIDER COMPLIANCE WITH ANY STATE OR LOCAL NOISE STANDARDS IN ADVANCE OF ACTING ON ANY PROPOSED VARIANCE REQUESTS OR CHANGES IN ZONING CLASSIFICATIONS.**

(4) **CONSIDER, PRIOR TO THE ISSUANCE OF ANY BUILDING OR ACTIVITY PERMIT, OR SIMILAR AUTHORIZING DOCUMENT, IF THAT PERMIT OR ACTIVITY WILL BE IN COMPLIANCE WITH LOCAL AND STATE NOISE CONTROL STANDARDS.**

[PROPOSED NEW LANGUAGE IN CAPS]

Rationale

The proposed additions shown in CAPS would provide for a means of minimizing the potential for future problems through a process of review during zoning changes, variance considerations, or permit issuance. They would not require local governments to institute local ordinances, and would not correct existing noise problems. Both the zoning and permitting processes could be managed within the existing framework of review through the addition of relatively simple check off requirements in the approval process. Although there may be some additional professional certification required on the part of the applicant, routine situations, such as the siting of home heat pumps or air conditioners, could be handled with standardized charts of sound attenuation over distance that are routinely available from manufacturers. More complex situations may require certification by acoustical engineers. While this may be viewed as an additional cost, the avoidance of the need for retrofitting a system with sound abatement devices and the avoidance of complaint investigations would help to justify the cost of pre-construction engineering review.

Draft January 12, 2002
Statutory Changes for Council Membership and Roles

Subtitle 2. Environmental Noise Advisory Council

§ 3-201. Council Established

There is an Environmental Noise Advisory Council in the Department.

§ 3-202. Membership

(a) (1) The Council consists of **[5] ELEVEN members, NINE VOTING MEMBERS** appointed by the Secretary **AND TWO EX OFFICIO MEMBERS.**

(2) Of the **[5] ELEVEN** Council members:

(i) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Acoustical Society of America **AND THE INSTITUTE OF NOISE CONTROL ENGINEERING;**

(ii) 1 shall be a physician who specializes in hearing, appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Medical and Chirurgical Faculty of the State of Maryland;

(iii) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Chancellor of the University System of Maryland; and

(iv) 2 shall be appointed from the **[general] public AT LARGE.**

(V) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND MUNICIPAL LEAGUE;

(VI) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND ASSOCIATION OF COUNTIES;

(VII) 2 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND CHAMBER OF COMMERCE;

(VIII) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE SENATE BY THE PRESIDENT OF THE SENATE; AND

(IX) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE HOUSE OF DELEGATES BY THE SPEAKER OF THE HOUSE.

~~[(3) Before appointing the members from among the general public, the Secretary shall request and consider suggestions for nominees from:~~

~~(i) The Maryland State Chamber of Commerce;~~

~~(ii) The Maryland Transportation Federation;~~

~~(iii) The Maryland Environmental Trust; and~~

~~(iv) Any other environmental groups that the Secretary selects.]~~

[(4)] (3) In making any appointment to the Council, the Secretary shall consider giving appropriate representation to the various geographical areas of this State.

(b) Each member of the Council shall be a resident of this State.

(c) TENURE – EACH MEMBER SHALL BE APPOINTED FOR A TERM OF FIVE YEARS.

~~[(1) The term of a member is 5 years.~~

~~(2) The terms of members are staggered as required by the terms provided for members of the Council on July 1, 1982. The terms of those members end as follows:~~

~~(i) 1 in 1983;~~

~~(ii) 1 in 1984;~~

~~(iii) 1 in 1985;~~

~~(iv) 1 in 1986; and~~

~~(v) 1 in 1987.~~

~~(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.~~

~~(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.]~~

§ 3-203. Officers

From among the Council members, the Secretary of the Environment shall appoint a chairman, a vice chairman, and a secretary of the Council.

§ 3-204. Meetings; compensation; staff

(a) The Council shall meet at the times and places that the Secretary or the chairman determines.

(b) A member of the Council:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The Department shall provide the Council with secretarial and stenographic assistance

§3-205 Advisory role of Council.

(a) Duty of the Department – Before the Department **PROPOSES ANY CHANGES IN THE GOVERNING STATUTE OR** ~~adopts any~~ **REVISIONS TO THE** environmental noise **REGULATIONS standard or sound level limit**, the Department shall submit the proposed **REVISIONS environmental noise standard or sound level limit** to the Council for advice. **THE DEPARTMENT SHALL ASSIST THE COUNCIL BY ARRANGING FOR:**

1. **HEARINGS OR PRESENTATIONS BY PUBLIC AND OR BUSINESS INTERESTS, AND**

2. **PREPARE OR SOLICIT TECHNICAL INPUT OR PRESENTATIONS ON ISSUES.**

(b) Duty of the Council – Within 60 days after receiving a proposed **REVISION environmental noise standard or sound level limit** from the Department, the Council shall give the Department its advice on the proposal by recommending:

1. Adoption

2. Rejection; or

3. Modification.

(C) THE COUNCIL MAY ALSO PROVIDE GENERAL ADVICE TO THE DEPARTMENT ON ANY MATTER RELATING TO NOISE POLLUTION.

Statutory Changes Regarding Membership in the Committee

Subtitle 3. Interagency Noise Control Committee.

§ 3-301. Committee established.

There is an Interagency Noise Control Committee. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2.)

§ 3-302. Composition; chairman.

(a) The Committee consists of:

- (1) 1 member of the Governor's executive staff, appointed by the Governor; and
- (2) 1 representative of each of the following departments, appointed by the Secretary of that department:

- (i) The Department of the Environment;
- (ii) The [State] Department of Transportation;
- (iii) The Department of Natural Resources;
- (iv) The DEPARTMENT [Office] of Planning OR THE OFFICE OF SMART GROWTH; [-and]
- (v) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- (vi) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;
- (vii) THE DEPARTMENT OF LICENSING, LABOR AND REGULATION; AND
- (v)(viii) Any other principal department that develops, adopts, or enforces any noise control rule or regulation.

(b) Chairman. - The member who is appointed by the Secretary of the Environment is chairman of the Committee. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1987, ch. 306, § 16; 1988, ch. 6, § 11; 1989, ch. 540, § 1.)

§ 3-303. Meetings; compensation; staff.

(a) Meetings. - The Committee shall meet at least twice a year, at the times and places that it determines.

(b) Compensation and reimbursement for expenses. - A member of the Committee:

- (1) May not receive compensation; but
- (2) Is entitled to reimbursement for expenses under the Travel Regulations, as provided in the State budget.

(c) Staff, consultants, and facilities. - (1) In accordance budget, the Committee may:

- (i) Employ a staff;
- (ii) Employ consultants; and
- (iii) Obtain office facilities.

(2) The Department of the Environment shall provide the Committee with secretarial and stenographic assistance. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1987, ch. 306, § 16; 1988, ch. 6, § 11.)

§ 3-304. Duties of Committee.

(a) In general. - The Committee shall:

- (1) Receive reports of progress, problems, and proposed plans for attaining and maintaining State environmental noise standards from each agency that is represented on the Committee;

(2) Evaluate the adequacy of existing and proposed efforts to attain and maintain State environmental noise standards;

(3) Review the relationship of State noise control rules and regulations with other environmental laws, rules, regulations, standards, and programs; and

(4) Recommend new or revised noise control rules, regulations, or legislation.

§ 3-401

(b) Annual report. - If the Council requests, the annual report of the Committee shall include a report of the Council. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1991, ch. 55, § 6; 1992, ch. 432; 1993, ch. 4, § 2.)

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From: CHARLES ADAMS
To: KEN POLCAK
Date: Mon, Feb 18, 2002 9:39 AM
Subject: Re: Interagency Noise Control Committee

Ken, let's discuss. This does not seem in any way to address highway related noise impacts. I'm not sure if there is anything we should be concerned about.

Charlie

>>> KEN POLCAK 01/30/02 01:12PM >>>
Hi Charlie:

One of the latest issues that have arisen (Issue Paper No.1, attached), involves local governments and their role in zoning and permitting. I think SHA has always viewed consideration of noise in the planning, zoning and permit processes as important but in practice it is very sporadic and fairly marginal in terms of effectively limiting new problems. Up to this point, the Committee proceedings have been focused on issues not really relevant to our work, but this one seems to hit a little closer to home.

I think it would be important to review this proposal, and determine if SHA should push for any expansion, more language, or other action that might aid in our efforts..... I'm not really sure if the transportation source exemptions, and other jurisdictional limits, would automatically preclude certain things, but perhaps not.

The existing (and proposed) language is oriented toward controlling source emissions through allowable levels for receiving land uses. The SHA perspective is kind of reversed..... how can we get local government to consider the presence of an existing noisy highway and guide zoning to be compatible? It doesn't seem that the proposed changes would do anything to help SHA.....

Would you care to discuss further, bring up with Neil or Parker, etc.?? The next Interagency Committee meeting is April 15.

Let me know what you think?..... thanks..... Ken

CC: JHade

1/7/02 Q3

MD. Municipal League -
- big reservation
Issue paper #1

Tom Ogletree - Mont. Co. (www.askdep.com)

□ since '75
"96 compreh. revisions (ordinance, etc.)

D. MN-CPPC - planning / master plan / zoning
responsib. for both Mo. + PG

INCE - funded by Co.
Ordinance - prep line (rec'n)
approach to "institutionalize
noise into
fabric of other
agencies"
Bldg permits

Co. Planning Board
60 dnc
Permitting services

Geo. Luz. → to write-up thoughts
issues.

[Apr. 15th] ⇒ next mtg - Agenda (upcoming)

① Planning process

* Developers → consultants
- planners, etc. - contact /
(touch base w/ Geo. Harmon → w/ info.)

* HVAC -
Household pets
Variance costs
Geo. H. to do
issue papers

MEETING AGENDA
ENVIRONMENTAL NOISE ADVISORY COUNCIL
AND THE INTERAGENCY NOISE CONTROL COMMITTEE

January 7, 2002
9:00 AM to 12:00 PM
Chesapeake Conference Room

- 9:00 Welcome and Introductions
 9:05 Minutes of the December meeting
 9:10 Status of Medical Chirurgical Faculty member - *Dr. Jimmy Cherry*
 9:15 Update and Revisions of Legislative and Regulatory Proposals discussed at the December meeting.
 a. Council and Committee - Membership, Roles, Responsibilities
 b. Local Government and Noise Issue Prevention - Zoning and Permit Review

Presentations on Local Government Considerations of Noise Standards in Zoning and Permit Processes

- 9:30 Montgomery County - Tom Ogle (invited)
 9:45 Maryland Association of Counties - MACO (invited)
 10:00 Maryland Municipal League - MML (invited)
 10:15 Developer/Consultant Perspective
 10:30+/- Break
- 10:40 Continued deliberation on Zoning and Permit requirements by local governments
 11:00 Discussion of Shooting Sport Facilities Regulatory Proposal - need for regulations to be consistent with the law
 11:30 Public Comment Period and/or Ranking of Additional Issues for future meetings
- Periodic and Impulse Noise Definition
 - Measurement technique - Table 2
Fast L_{max} vs. other methods
 - Agricultural equipment - field machinery vs. stationary equipment
 - Continuous Noise - Goals - Standards and Table 1 - use of L_{dn} vs. L_{max}
 - Household tools - nighttime limitation
 - HVAC - lower standards (remove from law and regulations)
 - Household pets - exempt
 - Public property exemption - retain exemption or consider for emergency situations only
 - Variance costs - should they be borne by the applicant
 - Auto Racing Exemption
 - Council Mission Statement
 - Others

12:00 Adjourn

Future Meetings February 4, 11, 18, 25?
 March 4, 11, 18, 25?
 April 1, 8, 15, 22, 29?

next one

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MEETING AGENDA
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 - Auto Racing Exemption
 - Council Mission Statement
 - Others
 - 12:00 Adjourn
- Future Meetings February 4, 11, 18, 25?
 March 4, 11, 18, 25?
 April 1, 8, 15, 22, 29?

DRAFT
Environmental Noise Advisory Council
And
Interagency Noise Advisory Committee
Meeting Minutes
December 3, 2001, 9:00 a.m.
Chesapeake Conference Room, MDE

Members:

Council:

Senator John Astle	ex officio	absent
Nancy Benner	Public	present
Dr. George Luz, Chair	Acoustical Society	present
Delegate Jake Mohorovic	ex officio	absent
Michael Powell	Public (business)	present
Dr. Fred Schmitz, Vice Chair	U of MD	present
Vacant	MedChi	absent

Committee:

Bill Grabau	MOSH	present
Robin Grove, Chair	MDE	present
Jesse Heier	Governor's Office	absent
Ken Polcak	MDOT	present
Fred Sherbert	DNR	present
David Roberts	DHMH	present

Guests:

See attached attendance sign-in sheet.

MDE Staff:

Robert Field
 George Harman
 Dave Jarinko
 Bill Parrish
 Heather Woods

The ninth official meeting of the Environmental Noise Advisory Council and Interagency Noise Committee was convened at 9:00 AM on December 3, 2001 at the Department of the Environment.

Agenda:

See the attached agenda for this meeting.

Introductions

Mr. Robin Grove opened the meeting with introductions of the Council and Committee members, guests, and MDE staff.

Mr. Grove explained that the Department would begin providing its proposals for statutory and regulatory changes to the Council in the form of issue papers. He advised that it was unlikely that any statutory proposals would be introduced into the coming legislative session by the Administration as the Governor's legislative package was already prepared. However, he said that Senator Astle or Delegate Mohorovic, or other members of the General Assembly could introduce legislative changes. He advised that the Department could make regulation changes at any time during the year.

Minutes of the September Meeting

Copies of the draft minutes for October 16, 2001 meeting were distributed. Dr. Luz requested clarification of Mr. Jarinko's statement in the minutes about local enforcement of noise ordinances.

Appointments – Med Chi Representative

The Council and Committee were advised that two candidates expressed interest in serving on the Council. From these two candidates the staff submitted a recommendation to the Secretary for her consideration.

New Business

-Discussion of Legislative and Regulatory Proposals Requested by the Council

a. Council and Committee – Membership, Roles and Responsibilities

Dr. Schmitz requested a written explanation of the purpose of the Council. He questioned whether the role of the Council was to provide technical review of the Department's regulatory proposals, or was its role to provide technical and political review. Mr. Grove referenced the language in the statute describing the duties of the Council. He explained that the Department welcomed the Council's recommendations from a broad range of perspectives. Mr. Roberts described the role of the Council during the time that the noise program operated under the Department of Health and Mental Hygiene. At that time the Council focused on technical issues as well as the impacts of various proposals. Following the discussion it was decided that the Department would draft a mission statement for the Council to review at its next meeting.

The next topic discussed was Issue Paper No. 2, concerning changes in the membership of the Council that were discussed at the October 16 meeting, and additional changes recommended by the Department. A copy of the issue paper is attached to these minutes. The Council reviewed and discussed the proposed changes, and five motions concerning them were made.

1st motion – Add to ENV Subtitle 3-302.(a)(1), “.. or their designee.” Following the word “Secretary”. This motion was withdrawn.

2nd motion – Change the number of Council members from nine (9), as shown in the proposal, to eleven (11), and in Subtitle 3-202.(a)(2)(VII), change the number of Chamber of Commerce members from one (1) to two (2).

3rd motion – Add to Subtitle 3.302.(a)(2)(iv) in the proposal the word "either" before "The", and add the phrase "...Office of Smart Growth;" after the word "Planning".

4th motion – Change the language in Subtitle 3-202. (c) in the proposal to reflect five year terms for Council members.

5th motion – Change the language in Subtitle 3.202(a)(1) so that it reads "The Council consists of nine voting members and two *ex officio* members appointed by the Secretary."

The Council approved motions two through five by consensus.

Break

After returning from a break there was discussion about communication and input from the public and business interests that might be affected by proposals considered by the Council. It was decided that the Council would postpone voting on specific proposals until input from affected parties was obtained.

There was discussion about prioritizing issues for consideration at the meetings of the Council and Committee. Mr. Powell suggested that issues involving statutory changes can not be delayed and that he might be able to find members of the Legislature to sponsor bills with these changes in the coming Legislative Session.

b. Local Zoning and Noise Issue Prevention – Zoning and Permit Review

MDE staff passed out copies of an issue paper containing the Department's proposal on this topic. Dr. Schmitz requested that "Table 3 Maximum Allowable Noise levels..." be removed from the paper to avoid confusion with the issue of revised noise standards. Mr. Powell urged that input from local governments be obtained, especially in regards to proposed amendment ENV Subtitle 3-105 (b)(4), concerning a requirement that a determination of compliance with noise standards be made by local officials before issuing a new building permit. Mr. Jarinko described current local government practices in zoning and permit review. He noted that Montgomery County is the only jurisdiction that uses noise standard compliance as a check-off item in project reviews.

Mrs. Benner noted that noise problems could be avoided if zoning decisions adequately addressed compliance with noise standards. Mr. Zeleski described how local agencies address zoning and planning issues. He noted that the proposal needs input from the Maryland Municipal League, Maryland Association of Counties and the Chamber of Commerce. He also noted that this issue is controversial and that if the proposal was introduced into the Legislature this year that it would have a poor chance of being enacted. Mr. Nelson described difficulties that would be encountered with the proposal unless local government support was behind it. Mr. Field recommended that input be obtained from development engineering interests. Mr. Burner

Ex-officio members
as first possible
choice

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recommended that input be obtained from developers who would be required to pay for compliance measures. Dr. Schmitz noted that input needs to be obtained from those who analyze project proposals, those who pay for compliance, and affected communities. It was decided that representatives of these various interests would be invited to attend future meetings in order to obtain their input on how more local involvement in regulating noise through zoning and permitting can be effective in preventing or reducing future noise problems.

It was decided to defer discussion of the proposal on gun clubs to the next meeting and to begin discussions on sound level measurement.

The next meeting will be on January 7, 2002 at 9 AM.

Attachments to be included with approved minutes.

**Environmental Noise Advisory Council
And
Interagency Noise Advisory Committee
Meeting Minutes
October 16, 2001, 9:00 a.m.
Chesapeake Conference Room, MDE**

Members:

Council:

Senator John Astle	ex officio	absent
Delegate Jake Mohorovic	ex officio	absent
Vacant	MedChi	absent
Dr. George Luz	Acoustical Society	present
Dr. Fred Schmitz	U of MD	present
Michael Powell	Public (business)	present
Nancy Benner	Public	absent

Committee:

Robin Grove, Chair	MDE	present
Jesse Heier	Governor's Office	absent
Bill Grabau	MOSH	present
Ken Polcak	MDOT	present
Fred Sherbert	DNR	present
David Roberts	DHMH	present

Guests:

See attached attendance sign-in sheet.

MDE Staff:

George Harman
Bill Parrish
Dave Jarinko

The eighth official meeting of the Environmental Noise Advisory Council and Interagency Noise Committee was convened at 9:00 AM on October 16, 2001 at the Department of the Environment.

Agenda:

See the attached agenda for this meeting.

Introductions

Mr. Robin Grove opened the meeting with introductions of the Council and Committee members, guests, and MDE staff. He outlined the role of the Council as outlined in the noise statute, and the need to follow a more formal process as the department seeks the Council's recommendations on its regulatory proposals. He explained that Drs. Luz and Schmitz expressed willingness to serve as Chair and Vice Chair, respectively, and that the Secretary will make the formal appointments in the near future.

Dr. Luz distributed materials showing a comparison of L_{\max} fast and L_{\max} slow measurements, and a study involving the evaluation of a USEPA report relating day-night average sound levels and population density. Mr. Powell noted that the Governor's Smart Growth policies promote development around existing populated areas, and may result in increased population density and noise levels.

Minutes of the September Meeting

Copies of the draft minutes for the September 10, 2001 meeting were distributed.

Appointments – Chair and Vice Chair

There was discussion about progress made in identifying a candidate for the vacant MEDCHI Society member of the Council. A list of retired physicians with interests in hearing disorders was requested from the Society. Those on the list will be sent a letter requesting expressions of interest. The Secretary will appoint a member from those on the list who show an interest in being a member of the Council.

New Business

A list of issues and topics dated August 28, 2001 was prepared by the Department and distributed previously to the Council and the Committee to assist them in scheduling topics for future meetings.

Mr. Powell expressed interest in having the Department and the Council consider local noise ordinances as one of the first issues addressed. There was discussion about the two aspects of local ordinances being planning and enforcement. Mr. Jarinko explained the current relationship between the Department and local enforcement agencies. He explained that local police and other enforcement agencies typically do not pursue a noise complaint if noise is the only issue involved. When other issues are involved that are illegal, he said, such as disruptive behavior, noise ordinances are enforced in addition to laws and ordinances affecting the illegal activities. He noted that local agencies do not typically pursue noise ordinance enforcement by itself because they lack the necessary equipment and technical expertise. Mr. Zeleski noted that local enforcement requires resources. There was general discussion about ways to encourage local governments to include noise control in planning and permitting of new development. The outcome of the discussions was agreement that the Department would prepare a proposal concerning local agency implementation of noise control and provide it for the Council to review at the next meeting.

The next topic discussed was the membership of the Council. Mr. Powell recommended that the Department consider adding local government representatives to the membership of the Council.

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He suggested consideration of one or two additional members selected from MACO and MML. The outcome of the discussions was that the Department would prepare a proposal for expanding the membership of the Council to include local government members.

The Council discussed the need to address agricultural equipment noise regulation. Based on public input at previous meetings, Mr. Powell noted that at previous meetings, no one from the public sector testified or complained about noise from agricultural machinery. Mr. Harman explained that the Department's strawman proposal was offered in order to clarify and establish in regulation its long-term policy of enforcement of noise standards for stationary equipment. It was decided to defer consideration of this issue to a future meeting.

The next topic discussed was the regulation of gun clubs. It was decided that the Department would prepare draft amendments to the regulations that incorporate the change in the statute that was made in the 2001 Legislative Session.

Mr. Powell suggested that a discussion take place at the next meeting about the possibility of the Council making a recommendation that funds be provided to the Department to support studies where needed to gather data for development of new regulations. Mr. Grove explained that the Governor's budget request for FY2003 has already been prepared, but that a request from the Council could be included in the FY2004 budget request.

Speaking during the public input session, Mr. Sandy Weymouth stated his belief that all outdoor recreational activities should be regulated under the noise statute and regulations.

It was decided that the next meeting of the Council and Committee would be on December 3, 2001 at 9AM.

Old Business

Next Meeting

Mr. Grove thanked everyone for coming to the meeting.

MEETING AGENDA
ENVIRONMENTAL NOISE ADVISORY COUNCIL
AND THE INTERAGENCY NOISE CONTROL COMMITTEE

April 15, 2002
9:00 AM to 12:00 PM
MDE Chesapeake Conference Room

- 9:00 Welcome and Introductions
9:05 Minutes of the January meeting
9:15 Legislative and Regulatory Update
Legislation - HB 1421
Council members, Council roles, Committee members, MDE roles
Regulations - gun clubs
09:45 Roles of Counties in Noise Control - Maryland Association of Counties - MACO
* Erin Dougherty
10:10 roles of Local Governments in Noise Control - Maryland Municipal League - MML
* Candace Donoho
10:30 +/- Break
10:40 Discussion of Local Government roles and responsibilities
11:15 Ranking/Scheduling of Additional Issues for future meetings
Present
⑧ ✓ • Periodic and Impulse Noise Definition
⑧ ✓ • Measurement technique - Table 2
Fast L_{max} vs. other methods
④ ✓ • Agricultural equipment - field machinery vs. stationary equipment
④ ✓ • Continuous Noise - Goals - Standards and Table 1 - use of L_{dn} vs. L_{max}
③ ✓ • Household tools - nighttime limitation
→ ① ✓ • HVAC - lower standards (remove from law and regulations)
② ✓ • Household pets - exempt
⑦ ✓ • Public property exemption - retain exemption or consider for emergency situations only
⑤ ✓ • Variance costs - should they be borne by the applicant
⑨ ✓ • Auto Racing Exemption (*sporting events (not just racing)*)
• Council Mission Statement
• Others

11:30 Public Comment Period

12:00 Adjourn

Future Meetings

May ~~6th~~ 13th
June 3rd
July 1st, or 8th
August 5th
September 9th
October 7th
November 4th
December 2nd

HOUSE BILL 1421

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Unofficial Copy
M3

2002 Regular Session
2lr2992

By: **Delegate Morhaim**

Introduced and read first time: March 4, 2002

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2

Environment - Noise Control

3 FOR the purpose of altering the membership of the Environmental Noise Advisory
4 Council and the Interagency Noise Control Committee; providing for staggered
5 terms for members of the Environmental Noise Advisory Council; providing for
6 certain duties of the Department of the Environment and the Council; and
7 generally relating to the Environmental Noise Advisory Council and the
8 Interagency Noise Control Committee.

9 BY repealing and reenacting, without amendments,
10 Article - Environment
11 Section 3-201 and 3-301
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Environment
16 Section 3-202, 3-205, and 3-302
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 2001 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Environment**

22 3-201.

23 There is an Environmental Noise Advisory Council in the Department.

24 3-202.

25 (a) (1) The Council consists of [5] 13 members, 11 VOTING MEMBERS
26 appointed by the Secretary AND 2 EX OFFICIO MEMBERS.

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HOUSE BILL 1421

<u>This Bill</u>	<u>Council Approval</u>
1	1
1	1
3	2
1	1
1	1
2	2
1	0
1	1
13	11

1 (2) Of the [5] 13 Council members:

2 (i) 1 shall be appointed from a list of at least 3 qualified
3 individuals submitted to the Secretary by the Acoustical Society of America AND THE
4 INSTITUTE OF NOISE CONTROL ENGINEERING;

5 (ii) 1 shall be a physician who specializes in hearing, appointed
6 from a list of at least 3 qualified individuals submitted to the Secretary by the
7 Medical and Chirurgical Faculty of the State of Maryland;

8 (iii) 1 shall be appointed from a list of at least 3 qualified
9 individuals submitted to the Secretary by the Chancellor of the University System of
10 Maryland; [and]

11 (iv) [2] 3 shall be appointed from the [general] public AT LARGE;

12 (V) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3
13 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND MUNICIPAL
14 LEAGUE;

15 (VI) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3
16 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND ASSOCIATION OF
17 COUNTIES;

18 (VII) 2 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3
19 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND CHAMBER OF
20 COMMERCE;

21 (VIII) 1 SHALL BE APPOINTED FROM AN ENVIRONMENTAL GROUP;

22 (IX) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE
23 SENATE BY THE PRESIDENT OF THE SENATE; AND

24 (X) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE
25 HOUSE OF DELEGATES BY THE SPEAKER OF THE HOUSE.

26 (3) [Before appointing the members from among the general public, the
27 Secretary shall request and consider suggestions for nominees from:

28 (i) The Maryland State Chamber of Commerce;

29 (ii) The Maryland Transportation Federation;

30 (iii) The Maryland Environmental Trust; and

31 (iv) Any other environmental groups that the Secretary selects.

32 (4)] In making any appointment to the Council, the Secretary shall
33 consider giving appropriate representation to the various geographical areas of this
34 State.

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HOUSE BILL 1421

1 (b) Each member of the Council shall be a resident of this State.

2 (c) (1) The term of a member is 5 years.

3 (2) The terms of members are staggered as required by the terms
4 provided for members of the Council on [July 1, 1982] JULY 1, 2002. [The terms of
5 those members end as follows:

6 (i) 1 in 1983;

7 (ii) 1 in 1984;

8 (iii) 1 in 1985;

9 (iv) 1 in 1986; and

10 (v) 1 in 1987.]

11 (3) At the end of a term, a member continues to serve until a successor is
12 appointed and qualifies.

13 (4) A member who is appointed after a term has begun serves only for
14 the rest of the term and until a successor is appointed and qualifies.

15 3-205.

16 (a) Before the Department [adopts] PROPOSES any CHANGES IN THE
17 GOVERNING STATUTE OR REVISIONS TO THE environmental noise [standard or
18 sound level limit] REGULATIONS, the Department shall [submit]:

19 (1) SUBMIT the proposed [environmental noise standard or sound level
20 limit] REVISIONS to the Council for advice;

21 (2) ARRANGE FOR HEARINGS OR PRESENTATION BY PUBLIC OR
22 BUSINESS INTERESTS; AND

23 (3) PREPARE OR SOLICIT TECHNICAL INPUT OR PRESENTATIONS ON
24 ISSUES.

25 (b) Within 60 days after receiving a proposed [environmental noise standard
26 or sound level limit] REVISION from the Department, the Council shall give the
27 Department its advice on the proposal by recommending:

28 (1) Adoption;

29 (2) Rejection; or

30 (3) Modification.

31 (C) THE COUNCIL MAY PROVIDE GENERAL ADVICE TO THE DEPARTMENT ON
32 ANY MATTER RELATING TO NOISE POLLUTION.

4

HOUSE BILL 1421

1 3-301.

2 There is an Interagency Noise Control Committee.

3 3-302.

4 (a) The Committee consists of:

5 (1) 1 member of the Governor's executive staff, appointed by the
6 Governor; and7 (2) 1 representative of each of the following departments, appointed by
8 the Secretary of that department:

9 (i) The Department of the Environment;

10 (ii) The [State] Department of Transportation;

11 (iii) The Department of Natural Resources;

12 (iv) The Department of Planning OR THE OFFICE OF SMART
13 GROWTH; [and]

14 (v) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

15 (VI) THE DEPARTMENT OF BUSINESS AND ECONOMIC
16 DEVELOPMENT;17 (VII) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;
18 AND19 (VIII) Any other principal department that develops, adopts, or
20 enforces any noise control rule or regulation.21 (b) The member who is appointed by the Secretary of the Environment is
22 chairman of the Committee.23 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members
24 of the Environmental Noise Advisory Council created by this Act who are appointed
25 by the Secretary of the Environment shall expire as follows:

26 (1) 1 member in 2003;

27 (2) 1 member in 2004;

28 (3) 2 members in 2005; and

29 (4) 2 members in 2006.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2002.

NOISE SOLUTIONS BY GREG ZAK

36 BIRCH DRIVE
CHATHAM, ILLINOIS 62629
(217) 483-3507
(217) 483-5667-FAX
E-mail: gregzak@justice.com

ASA TALK OUTLINE, 6-7-01

Since 1973, the State of Illinois has had noise regulations. Active enforcement of these regulations has been ongoing in different forms depending on what resources are available to accomplish this end. Prior to 1981, Illinois had the funding to actively investigate noise complaints and refer those cases that had merit to the Attorney General's Office for prosecution. The Illinois Noise Regulations can be broadly divided into two parts, one is nuisance, and the other is numerical. The numerical part consists of limits for steady-state noise, measured in octave bands at the nearest residential property line. The numerical sections also contain limits for impulsive noise measured in A-weighted decibels, and prominent discreet tones measured in third octave bands. Loss of funding for both state and federal noise programs resulted in virtually no enforcement after 1981. Illinois' one person noise program addressed this situation in 1987 by following the example of a lady in the northern part of the state named Lucille Wathen. Lucille had a complaint about the noise from her neighbor's residential air-conditioner in the late 1970's. The policy at the Illinois EPA in those days was to not investigate neighbor to neighbor complaints. Lucille proceeded on her own without an attorney. She asked the Illinois EPA to measure the noise levels at her property line, which we did. Using our measurements, she appeared before the Illinois Pollution Control Board. She presented her case and the Board found her neighbor guilty of nuisance noise pollution and ordered the 86 year old neighbor to stop creating noise with her air-conditioner. The neighbor solved the problem by ceasing to use her air-conditioner. Following the strategy of Ms. Wathen, the Illinois EPA began to assist citizens who phoned in or sent in a letter complaining of noise from 1987 to the present date, we called it SELF-HELP. The result has been more actual noise control from the 1990's to 2001 than was obtained prior to the 1981 programmatic cuts. The case load has been running at 2 to 3000 complaint calls per year.

The SELF-HELP program that evolved can best be understood through an actual example.

In early 1996 I received a phone call from a lady named Mrs. Cohen. She lived in Palatine, Illinois near Chicago with her husband. They were very upset about noise 24 hours per day, 6

days per week from Overland, a trucking facility abutting their backyard. The noise consisted of clanging and banging from the loading and unloading of large semi-trucks, roaring noise along with the beeping of a backup alarm on a small vehicle used to move semi-trailers around the parking and dock areas.

She called Overland several times about the noise, yet it did not improve. She called local authorities who advised her to call the Illinois EPA.

I explained to her that I was the whole noise program, and in order to solve her noise problem it would take both of us working on it. I suggested she send a letter by certified mail to the owner or CEO of the company. She could find his name, title and address through a call to her local public library. Then she passed a petition around to her neighbors, and most supported her complaint as they too were impacted by the noise.

She sent a certified letter to the company president. In the letter she was cordial and friendly, reminding the company president that they were neighbors. She asked if he would fix the problem, if so, how, how long would it take, and please respond within 15 days. She sent me a copy of her letter and I opened a file on her case.

Two weeks later she called to tell me she had not gotten a satisfactory response. I prepared a letter detailing how to proceed. Enclosed was a completed example letter done by a lady attorney who had a noise complaint against the US Postal Service who had prevailed against them a few years previous to Mrs. Cohen's problem. The example letter was very well written, and contained references to the appropriate statutes and regulations for noise pollution, along with potential penalties for failure to comply. Also included were copies of all the pertinent statutes and regulations. Finally two trucking noise cases, heard and decided on by the Illinois Pollution Control Board in the complainant's favor were included to help Mrs. Cohen sort out which types of evidence were the most important in prevailing over the Overland trucking facility.

Mrs. Cohen prepared this letter as instructed and sent it to the company president, again by certified mail. The response again was a token one.

She called me again in about two weeks. I suggested that I send her a letter of instruction on how to file a formal complaint with the Pollution Control Board. After receiving it she completed the forms and sent it to the Board.

While her complaint was being considered by the Board, she called and told me she had taken extensive video tape of operations at the Overland trucking facility. I explained to her that because the camcorder had an automatic level control, the audio portion of the tape was inadmissible as evidence as there was no way to tell the decibel level of the trucking noise. She then said well how about if I include a sound level meter in the picture so that we can tell

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precisely how loud it is? She had an idea that would prove to make video tape admissible as evidence. The meter she used was a digital sound level meter from Radio Shack. While far from a precise instrument, it put an approximate decibel level where previously there was none. Her methodology, with a little helpful technical advice from the Illinois EPA would prove to be a winning combination in the end.

The Cohens decided to use an attorney when presenting their case before the Board. They chose Bill Forcade, who formerly sat on the Illinois Pollution Control Board for 8 years and is an accomplished environmental attorney at the Chicago law firm of Jenner & Block. In 1998, Bill Forcade chose to call noise experts from both the private sector and the state to testify regarding the noise impact on the Cohens and their neighbors. The expert for the state was asked to not only give an opinion on the noise impact, but also to provide evidence of the efficacy of the Radio Shack meter. A small microphone calibrator was placed over the microphone, while on the witness stand. The meter read 94.0 dB, which exactly matched the output of the precision calibrator. Questions were asked regarding the various solutions to the noise problems along with the cost of implementing the various solutions. A 22' high noise barrier was suggested between the abutting residences and the Overland trucking facility. It would be located at the fence line on the Overland property. The height was necessary to break line of sight to the second floor bedrooms from the location of much of the trucking noise.

A minor technical flaw was found in the numerical data taken by the expert from the private sector resulting in his data being rejected by the Board for proving a numerical violation. His data was used to bolster the nuisance portion of the complaint in the Board's decision in favor of the complainants.

In 1999, the Board rendered a verdict in favor of the complainants. The Board order required the Overland trucking company to erect a 22' noise barrier between their facility and the homes in the Cohen's subdivision. Loading dock modifications were ordered to reduce the noise at the dock. The Board also ordered Overland to pay a \$15,000 fine.

For the last 29 years I have been asked, "What if a company ignores a Board order? What can be done then? My answer has always been that no company has refused to comply with a Board order. My stock answer would soon change.

Overland paid their fine 9 months late along with the accrued interest charges for paying a late penalty. Overland did not build the noise barrier, make loading dock modifications, or do anything else in the Board order. The attorney for the Cohens enlisted the aid of the Cook

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County States Attorney along with the Illinois Attorney General's Office. The Cook County circuit court, having much stronger enforcement authority than the Pollution Control Board was asked to enforce the Board's order. The court ordered Overland's parent company Vitran, to pay a fine of \$250,000, pay additional fines of \$20,000 for each day it remained in the location next to the Cohen's neighborhood, and if not moved at the end of 5 days (as Overland had agreed to a few weeks before) warrants would be issued for the arrest of company officials for contempt of court. The effects of this order were sufficient for Vitran stock to dip slightly on Wall Street and rate mention that the dip was caused by a noise pollution fine in Illinois.

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From: "Carolyn Kuciara" <ckuciara@mde.state.md.us>
To: <George.Luz@amedd.army.mil>, <DAVIDR@dnhm.state.md...>
Date: Wed, Jan 30, 2002 9:46 AM
Subject: Membership Legislation and Update of Issue Paper on Local Governments

Please find attached a memorandum outlining the two additional attachments for your review. They are (1) Statutory Changes Regarding Membership in the Committee and (2) Issue Paper No. 1 = Local Government Rules in Zoning and Permit Issuance.

If you have any questions or if I can be of any assistance, please do not hesitate to contact me by phone @ 410-631-3183 or email @ ckuciara@mde.state.md.us

CC: "Bill Parrish" <bparrish@mde.state.md.us>, "Dave J..."

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Memorandum

Department of the Environment
Technical and Regulatory Services Administration

To: Noise Council and Committee Members Date: January 28, 2002

From: George Harman

Subject: Membership Legislation and Update of Issue Paper on Local Governments

Attached are two documents discussed at the January 7th meeting, and MDE agreed to prepare and distribute. The first is a draft of proposed legislation that would change the Council and Committee membership. It was stated, at the January 7th meeting, that this proposal would be presented to the Secretary before it was distributed for possible private sponsorship. Although no official position can be offered on the legislation, the Secretary indicated that presenting the Council's recommendations for possible consideration would be acceptable. Thus, any or all of the non-governmental Council members could seek a private sponsor for the legislation. It should be noted that there is usually an early February deadline for bill submittal, and, if anyone is planning to seek a sponsor, they should do so promptly.

The second item is an updated version of the position document related to the potential for requiring local governments to incorporate consideration of noise in their zoning and permitting processes. Included in that document is a proposed change in the law that could be considered. We are planning to involve the Maryland Association of Counties and the Maryland Municipal League, as well as those involved in the building and permitting process, in a discussion of this concept following this legislative session. Any potential changes in this part of the legislation would be considered for the 2003 session.

The Department would be appreciative in hearing from any member who is planning to seek a private sponsor for the proposed membership legislation. It would also be suggested that the matter be coordinated with Council member Michael Powell, who had indicated a willingness to serve as the legislative liaison in this matter.

Attachments:

1. Statutory Changes Regarding Membership in the Committee
2. Issue Paper No. 1 -- Local Government Rules in Zoning and Permit Issuance

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Issue Paper No. 1
January 28, 2002 Revision
Local Government Roles in Zoning and Permit Issuance

Issue

Noise complaints are frequently avoidable through reasonable planning and zoning decisions. Complaints received from the public are generally related to noise generating sources such as HVAC units, dumpsters, and loading docks that have been sited under zoning or permits without full regard for adjoining property impacts and uses. Prime examples are the strip malls and large box stores that have their loading docks immediately adjacent to townhomes or apartment complexes. Reorientation of the facility during site design, or the addition of sound mitigation packages that manufacturers frequently sell as add-ons for HVAC and standby generators can frequently avoid these situations.

In many circumstances, simple rearrangements of the site plan could have prevented the circumstances from causing the complaint. If the site plan could not be altered to prevent the problem, pre-construction acoustical engineering and the utilization of sound mitigation devices could be employed to avoid the need for more costly retrofit engineering. In addition to reducing the cost burden on the noise sources, the avoidance of complaints reduces the burden on the state and local governments for compliance actions, which can require extensive administrative and legal resources.

Montgomery County utilizes a simple check-off process in their zoning and permit issuance processes to have these preventative measures instituted. Mandating that this procedure be implemented by all local jurisdictions would greatly reduce the number of new noise complaints that must be addressed by local governments and the state. Benefits would also accrue to the developer in the form of reduced costs for post construction mitigation and the management of legal matters arising from complaint actions.

Laws

The existing statute (Environment Article, Title 3, provides that local governments may adopt noise control regulations that are not less stringent than those of the state. Some local jurisdictions have adopted local ordinances that are equal to, or more stringent, than the state regulations.

The existing statute in EA §3-105(b) does establish some requirements for local governments and these are outlined below:

b) Each political subdivision shall:

- (1) Send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts; and
- (2) Identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title.

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Regulations

Code of Maryland Regulations (COMAR) do not contain any specific language addressing local jurisdiction duties or responsibilities in regard to zoning or planning other than to locate on their maps the applicable standards for that land use. Even this level of effort is undocumented.

The only aspect of the regulations that is associated with local land use issues is the standard for maximum allowable noise levels. This section sets standards by generalized zoning district, which are defined by local government, or in the absence of specific local land use definition, by actual use.

**Table 3 Maximum Allowable Noise Levels (dBA)
for Receiving Land Use Categories
(MEASURED AS FAST L_{MAX})**

Effective Date	Day/Night	Industrial	Commercial	Residential
Upon Adoption	Day	75	67	65
	Night	75	62	55

Proposal

It is being proposed that Environment Article, Title 3 be amended to require local governments to consider noise as an environmental pollutant prior to the institution of any zoning changes, and prior to the issuance of any permits that can be linked to the generation of a noise source. This would be accomplished by adding two requirements to EA §3-105. Specifically, the additions would be as follows:

§ 3-105. Powers and Duties of Political Subdivisions

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of JANUARY 1, 2001. ~~[July 1, 1983. However, this prohibition does not apply if the sports shooting club moves to a parcel of land that is not contiguous to the location of the club on July 1, 1983.]~~

(THE ABOVE CHANGE WAS ENACTED UNDER SB 869/ HB 1423 IN 2001)

(ii) This paragraph does not apply in Allegany, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

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(b) Each political subdivision shall:

(1) Send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts; and

(2) Identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title.

(3) CONSIDER COMPLIANCE WITH ANY STATE OR LOCAL NOISE STANDARDS IN ADVANCE OF ACTING ON ANY PROPOSED VARIANCE REQUESTS OR changes in zoning classificationS.

(4) **CONSIDER**, PRIOR TO THE ISSUANCE OF ANY BUILDING OR ACTIVITY PERMIT, OR SIMILAR AUTHORIZING DOCUMENT, IF THAT PERMIT OR ACTIVITY WILL BE IN COMPLIANCE WITH LOCAL AND STATE NOISE CONTROL STANDARDS.

[PROPOSED NEW LANGUAGE IN CAPS]

Rationale

The proposed additions shown in CAPS would provide for a means of minimizing the potential for future problems through a process of review during zoning changes, variance considerations, or permit issuance. They would not require local governments to institute local ordinances, and would not correct existing noise problems. Both the zoning and permitting processes could be managed within the existing framework of review through the addition of relatively simple check off requirements in the approval process. Although there may be some additional professional certification required or the part of the applicant, routine situations, such as the siting of home heat pumps or air conditioners, could be handled with standardized charts of sound attenuation over distance that are routinely available from manufacturers. More complex situations may require certification by acoustical engineers. While this may be viewed as an additional cost, the avoidance of the need for retrofitting a system with sound abatement devices and the avoidance of complaint investigations would help to justify the cost of pre-construction engineering review.

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Draft January 12, 2002

Statutory Changes for Council Membership and Roles

Subtitle 2. Environmental Noise Advisory Council

§ 3-201. Council Established

There is an Environmental Noise Advisory Council in the Department.

§ 3-202. Membership

(a) (1) The Council consists of **[5] ELEVEN** members, **NINE VOTING MEMBERS** appointed by the Secretary **AND TWO EX OFFICIO MEMBERS.**

(2) Of the **[5] ELEVEN** Council members:

(i) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Acoustical Society of America **AND THE INSTITUTE OF NOISE CONTROL ENGINEERING;**

(ii) 1 shall be a physician who specializes in hearing, appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Medical and Chirurgical Faculty of the State of Maryland;

(iii) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Chancellor of the University System of Maryland; and

(iv) 2 shall be appointed from the **[general]** public **AT LARGE.**

(V) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND MUNICIPAL LEAGUE;

(VI) 1 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND ASSOCIATION OF COUNTIES;

(VII) 2 SHALL BE APPOINTED FROM A LIST OF AT LEAST 3 INDIVIDUALS SUBMITTED TO THE SECRETARY BY THE MARYLAND CHAMBER OF COMMERCE;

(VIII) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE SENATE BY THE PRESIDENT OF THE SENATE; AND

(IX) 1 EX OFFICIO MEMBER SHALL BE APPOINTED FROM THE HOUSE OF DELEGATES BY THE SPEAKER OF THE HOUSE.

~~[(3) Before appointing the members from among the general public, the Secretary shall request and consider suggestions for nominees from:-~~

~~(i) The Maryland State Chamber of Commerce;~~

~~(ii) The Maryland Transportation Federation;~~

~~(iii) The Maryland Environmental Trust; and~~

~~(iv) Any other environmental groups that the Secretary selects.]~~

[(4)] (3) In making any appointment to the Council, the Secretary shall consider giving appropriate representation to the various geographical areas of this State.

(b) Each member of the Council shall be a resident of this State.

(c) **TENURE – EACH MEMBER SHALL BE APPOINTED FOR A TERM OF FIVE YEARS.**

~~[(1) The term of a member is 5 years.]~~

~~(2) The terms of members are staggered as required by the terms provided for members of the Council on July 1, 1982. The terms of those members end as follows:~~

~~(i) 1 in 1983;~~

~~(ii) 1 in 1984;~~

~~(iii) 1 in 1985;~~

~~(iv) 1 in 1986; and~~

~~(v) 1 in 1987.~~

~~(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.~~

~~(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.]~~

§ 3-203. Officers

From among the Council members, the Secretary of the Environment shall appoint a chairman, a vice chairman, and a secretary of the Council.

§ 3-204. Meetings; compensation; staff

(a) The Council shall meet at the times and places that the Secretary or the chairman determines.

(b) A member of the Council:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The Department shall provide the Council with secretarial and stenographic assistance

§3-205 Advisory role of Council.

(a) Duty of the Department – Before the Department **PROPOSES ANY CHANGES IN THE GOVERNING STATUTE OR adopts any REVISIONS TO THE** environmental noise **REGULATIONS standard or sound level limit**, the Department shall submit the proposed **REVISIONS environmental noise standard or sound level limit** to the Council for advice. **The Department shall assist the Council by arranging for:**

1. **Hearings or presentations by public and or business interests, and**

1. **Prepare or solicit technical input or presentations on issues.**

(b) Duty of the Council – Within 60 days after receiving a proposed **REVISION environmental noise standard or sound level limit** from the Department, the Council shall give the Department its advice on the proposal by recommending:

1. **Adoption**

1. **Rejection; or**

Modification.

(c) The Council may also provide general advice to the department on any matter relating to noise pollution.

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Statutory Changes Regarding Membership in the Committee

Subtitle 3. Interagency Noise Control Committee.

§ 3-301. Committee established.

There is an Interagency Noise Control Committee. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2.)

§ 3-302. Composition; chairman.

(a) The Committee consists of:

- (1) 1 member of the Governor's executive staff, appointed by the Governor; and
- (2) 1 representative of each of the following departments, appointed by the Secretary of that department:
 - (i) The Department of the Environment;
 - (ii) The [] Department of Transportation;
 - (iii) The Department of Natural Resources;
 - (iv) The **DEPARTMENT [] of Planning OR THE OFFICE OF SMART GROWTH; []**
 - (v) **THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**
 - (vi) **THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;**
 - (vii) **THE DEPARTMENT OF LICENSING, LABOR AND REGULATION; AND**
 - (viii) Any other principal department that develops, adopts, or enforces any noise control rule or regulation.

(b) Chairman. - The member who is appointed by the Secretary of the Environment is chairman of the Committee. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1987, ch. 306, § 16; 1988, ch. 6, § 11; 1989, ch. 540, § 1.)

§ 3-303. Meetings; compensation; staff.

(a) Meetings. - The Committee shall meet at least twice a year, at the times and places that it determines.

(b) Compensation and reimbursement for expenses. - A member of the Committee:

- (1) May not receive compensation; but
- (2) Is entitled to reimbursement for expenses under the Travel Regulations, as provided in the State budget.

(c) Staff; consultants, and facilities. - (1) In accordance budget, the Committee may:

- (i) Employ a staff;
- (ii) Employ consultants; and
- (iii) Obtain office facilities.

(2) The Department of the Environment shall provide the Committee with secretarial and stenographic assistance. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1987, ch. 306, § 16; 1988, ch. 6, § 11.)

§ 3-304. Duties of Committee.

(a) In general. - The Committee shall:

- (1) Receive reports of progress, problems, and proposed plans for attaining and maintaining State environmental noise standards from each agency that is represented on the Committee;

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(2) Evaluate the adequacy of existing and proposed efforts to attain and maintain State environmental noise standards;

(3) Review the relationship of State noise control rules and regulations with other environmental laws, rules, regulations, standards, and programs; and

(4) Recommend new or revised noise control rules, regulations, or legislation.

§ 3-401

- (a) Annual report. - If the Council requests, the annual report of the Committee shall include a report of the Council. (An. Code 1957, art. 43, § 827; 1982, ch. 240, § 2; 1991, ch. 55, § 6; 1992, ch. 432; 1993, ch. 4, § 2.)

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From: "Carolyn Kuciara" <ckuciara@mde.state.md.us>
To: <cshaw2@alleghenyenergy.com>, <George.Luz@amedd.ar...>
Date: Thu, Jan 3, 2002 2:06 PM
Subject: Noise meeting January 7, 2002

Hi everone

This is a reminder email of the noise meeting on Monday, January 7, 2002 at 9 a.m. in the Chesapeake Conference Room at MDE.

Please note that, if State offices are closed on Monday or are delayed in opening because of snow, the January 7th meeting will be cancelled. Members and interested guests should tune into their regular TV or radio stations for the status of snow closures.

You may also call our inclement weather telephone number at 1-800-633-6101 on Monday morning for information about the opening of the MDE building at Broening Highway .

CC: "Bill Parrish" <bparrish@mde.state.md.us>, "Dave J..."